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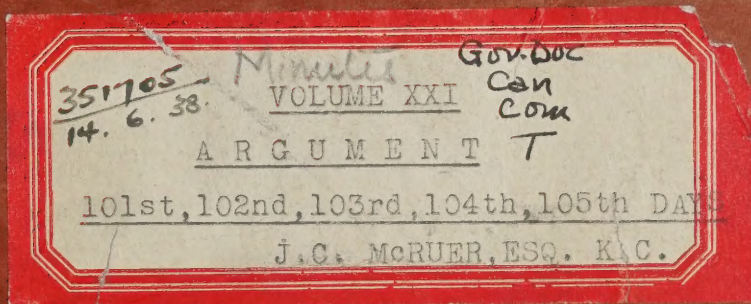
J. C. McRUER

13855-14424

ROYAL COMMISSION ON THE  
TEXTILE INDUSTRY

HON. MR. JUSTICE W. F. A. TURGEON  
Commissioner

A. S. Whiteley, Secretary



ROBERT BRYDIE  
OFFICIAL REPORTER  
TORONTO  
CANADA





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*J. C. McRuer, Esq., K.C.*



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ROYAL COMMISSION ON THE TEXTILE INDUSTRY

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ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S. Whiteley, Secretary,

ONE HUNDRED AND FIRST DAY

(February 2nd, 1937)



1891

STATE OF ALABAMA

IN SENATE,

January 10, 1891.

REPORT

OF THE

COMMISSIONER

OF THE LAND OFFICE

FOR THE YEAR 1890.

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ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

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A.S. Whiteley, Secretary.

A p p e a r a n c e s :

10

J.C. McRuer, K.C. and )  
E. Beauregard, K.C. ) Commission Counsel,

R.L. Kellock, K.C. ) For Primary Textiles  
Institute.

15

C.G. Heward, K.C. )  
Aime Geoffrion, K.C. ) For Dominion Textile  
and ) Company.  
C.T. Ballantyne, )

S.G. Dixon, K.C. ) For Courtaulds, Limited.

L.A. Forsyth, K.C. ) For Canadian Celanese Ltd.  
and Canadian Silk Products  
Limited.

20

A.S. Bruneau, K.C. ) for Canadian Cottons.

Thos. Tremblay, K.C. )  
and ) For M.E. Binz Co. Limited.  
J. H. Hebert,

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1900

THE 11th ANNUAL MEETING OF THE

MEMBERS OF THE SOCIETY OF

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MEMBERS OF THE SOCIETY OF

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Ottawa, Ontario,  
February 2, 1937

-- The Commission resumed at 2.30 P.M.

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THE COMMISSIONER: Well, Mr. McRuer, we ought to hear from you first, I suppose.

10

MR. McRUER: My lord, since we last met, there have been several exhibits filed with Mr. Whitely, many of which had been mentioned during the course of the evidence as material that would be furnished to the Commission, and this has been done. I take it they will be properly recorded, my lord.

15

THE COMMISSIONER: Yes, I have copies.

EXHIBIT 1246: Report of Tariff Board in Reference B.B.

EXHIBIT 1247: Distribution of Mill Employees According to Hourly Earnings, Feb. 1936. Males, Cotton Division.

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EXHIBIT 1248: Distribution of Mill Employees According to Hourly Earnings, Feb. 1936. Females, Cotton Division.

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EXHIBIT 1251: Distribution of Mill Employees According to Earnings in Pay Period - One week Payrolls - February 1936. Females, Cotton Division.



Yves S. VERNIER

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

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Period - Twoweeks Payrolls -  
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Woollens and Paper Makers Felts Div.

EXHIBIT 1263: Operating Results and Mill Wages  
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Profit and Loss Summaries.  
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- EXHIBIT 1269P Summary of Employees, Salaries and Wages, (As reported on Questionnaire for 19) for years 1930-1935. inclusive. Woollen Division.
- 20 EXHIBIT 1270: Summary of Employees, Salaries and wages, (As reported on Questionnaire for 19) for years 1930-1935. Woollens & Paper Makers' Felts Div.
- EXHIBIT 1271: Summary of Employees, Salaries and wages, (As reported on Questionnaire for 19) for years 1930-1935. Knit Goods Division.
- 25 EXHIBIT 1272: Summary of Employees, Salaries and wages, (As reported on Questionnaire for 19) for years 1930-1935. Hosiery Division.
- 30 EXHIBIT 1273: Summary of Employees, Salaries and wages, (As reported on Questionnaire for 19) for years 1930-1935. Carpet Division.



Operating Results and Mill Wages  
Summarized for each five year  
period - Profit and Loss Statements  
Greatest Division

Operating Results and Mill Wages  
Summarized for each five year  
period - Profit and Loss Statements  
Greatest Division

Summary of Employees, Salaries and  
Wages, (As reported on questionnaires  
for 19) for Years 1930-1935,  
inclusive.  
Primary and Industrial Cotton Div

Summary of Employees, Salaries and  
Wages, (As reported on questionnaires  
for 19) for Years 1930-1935,  
inclusive.  
Milk Division

Summary of Employees, Salaries and  
Wages, (As reported on questionnaires  
for 19) for Years 1930-1935,  
inclusive. Feed  
Industrial and Dairy

Summary of Employees, Salaries and  
Wages, (As reported on questionnaires  
for 19) for Years 1930-1935,  
inclusive.  
Food Division

Summary of Employees, Salaries and  
Wages, (As reported on questionnaires  
for 19) for Years 1930-1935,  
inclusive.  
Woolens & Paper Makers, Textile Div

Summary of Employees, Salaries and  
Wages, (As reported on questionnaires  
for 19) for Years 1930-1935,  
inclusive.  
Knit Goods Division

Summary of Employees, Salaries and  
Wages, (As reported on questionnaires  
for 19) for Years 1930-1935,  
inclusive.  
Hosiery Division

Summary of Employees, Salaries and  
Wages, (As reported on questionnaires  
for 19) for Years 1930-1935,  
inclusive.  
Garment Division

Operating Results  
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EXHIBIT 1274:

Summary of Employees, Salaries and Wages, (As Reported on Questionnaire form 19 for years 1930 - 1935, inclusive. Thread Division.

EXHIBIT 1275:

Representative Companies - Summary of Operations, 1926 to 1935 Inclusive (Including eight companies which filed returns for the full ten years and three which commenced business since 1926) Hosiery Division.

EXHIBIT 1275:

Representative Companies - Summary of Operations, 1926 to 1935 Inclusive. Woollens Division. Carpet Division, Knit Goods Division, Real Silk Division, Woollens & Paper, Makers' & Felts Div. Primary & Industrial Cottons Division. Artificial Silk Div. Threa Division.

EXHIBIT 1276:

Executive and Management - Salaries of \$5000 and over as reported in Questionnaire. Cotton Division.

EXHIBIT 1277:

Executive and Management - Salaries of \$5000 and over as reported in Questionnaire. Broad Silk Div.

EXHIBIT 1278:

Executive and Management - Salaries of \$5000 and over as reported in Questionnaire, Artificial Silk Div.

EXHIBIT 1279:

Executive and Management - Salaries of \$5000 and over as reported in Questionnaire, Artificial Silk Div. Woollen Division.

EXHIBIT 1280:

Executive and Management - Salaries of \$5000 and over as reported in Questionnaire, Woollen & Paper Makers' Felts Division.

EXHIBIT 1281:

Executive and Management - Salaries of \$5000 and over as reported in Questionnaire, Knit Goods Division.



1917-1918

Summary of expenses, salaries and wages, (as reported on questionnaire form for the year 1917-1918, attached.)

1918-1919

Summary of expenses, salaries and wages, (as reported on questionnaire form for the year 1918-1919, attached.)

1919-1920

Summary of expenses, salaries and wages, (as reported on questionnaire form for the year 1919-1920, attached.)

1920-1921

Summary of expenses, salaries and wages, (as reported on questionnaire form for the year 1920-1921, attached.)

1921-1922

Summary of expenses, salaries and wages, (as reported on questionnaire form for the year 1921-1922, attached.)

1922-1923

Summary of expenses, salaries and wages, (as reported on questionnaire form for the year 1922-1923, attached.)

1923-1924

Summary of expenses, salaries and wages, (as reported on questionnaire form for the year 1923-1924, attached.)

1924-1925

Summary of expenses, salaries and wages, (as reported on questionnaire form for the year 1924-1925, attached.)

1925-1926

Summary of expenses, salaries and wages, (as reported on questionnaire form for the year 1925-1926, attached.)

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- EXHIBIT 1282: Executive and Management - Salaries of \$5000 and over as reported in Questionnaire, Hosiery Division.
- EXHIBIT 1283: Executive and Management - Salaries of \$5000 and over as reported in Questionnaire, Carpet Division.
- EXHIBIT 1284: Executive and Management - Salaries of \$5000 and over as reported in Questionnaire, Thread Division.
- EXHIBIT 1285: Comparative statement showing distribution of employees in cotton mills according to hourly earnings, U.S.A. and Canada.
- EXHIBIT 1286: Comparative statement for silk and rayon industry, U.S.A. and Canada.
- 1287: Statement showing average weekly earnings of wage earners by leading industries - Canada - 1934.
- EXHIBIT 1288: Statement showing average weekly earnings of wage earners of leading industries - Quebec - 1934.
- EXHIBIT 1289: Statement showing average weekly earnings of wage earners of leading industries, Ontario - 1934.
- EXHIBIT 1290: Japan Silk Year Book, 1935-36
- EXHIBIT 1291: Reports of Federal Trade Commission, Textile Industry, Cotton Textile Industries, Part I, 1933-34, Part I, first and second half of 1935.
- EXHIBIT 1292: Average Hourly Earnings - Woollen and woollen & Paper Makers' Felts - 1926-1930-1934-1936.
- EXHIBIT 1293: Average Earnings in Pay Period - Woollen and Woollen & Paper Makers' Felts - 1926 - 1930 - 1934 - 1936.
- EXHIBIT 1294: Average hourly earnings, Knit Goods Division, 1926, 1930, 1934 and 1936.



1935

Executive and Administrative -  
Division of 1935 and over as reported  
in 1935.

1935

Executive and Administrative -  
Division of 1935 and over as reported  
in 1935.

1935

Executive and Administrative -  
Division of 1935 and over as reported  
in 1935.

1935

Comparative statement showing the  
division of employees in 1935  
and 1936.

1935

Comparative statement for 1935 and  
1936, U.S.A. and Canada.

1935

Statement showing the division of  
employees of the company by leading  
industries - 1935.

1935

Statement showing the division of  
employees of the company by leading  
industries - 1935.

1935

Statement showing the division of  
employees of the company by leading  
industries - 1935.

1935

Statement showing the division of  
employees of the company by leading  
industries - 1935.

1935

Statement showing the division of  
employees of the company by leading  
industries - 1935.

1935

Statement showing the division of  
employees of the company by leading  
industries - 1935.

1935

Statement showing the division of  
employees of the company by leading  
industries - 1935.

1935

Statement showing the division of  
employees of the company by leading  
industries - 1935.

1935

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EXHIBIT 1295: Average Earnings in Pay Period  
Knit Goods Division, 1926,  
1930, 1934 and 1936.

EXHIBIT 1296: Average Hourly Earnings,  
Hosiery Division,  
1926, 1930, 1934 and 1936.

EXHIBIT 1297: Average Earnings in Pay Period  
Hosiery Division,  
Hosiery Division,  
1926, 1930, 1934 and 1936.

EXHIBIT 1298: Average Hourly Earnings & Average  
Earnings in Pay Period - Carpet  
Division.

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EXHIBIT 1299: Average Hourly Earnings & Average  
Earnings in Pay Period - Thread Div.

EXHIBIT 1300: Comparative Distribution of employees  
according to hourly earnings in  
textile industries, 1936.

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EXHIBIT 1301: Average Hourly earnings in Cotton  
Goods Manufacturing, A Quebec and  
Ontario, 1926-1936.

EXHIBIT 1302: Average Hourly earnings in Cotton  
Goods Manufacturing, United States,  
1926-1934.

EXHIBIT 1303: Copy of Rayon Organon, January 1937.

20

EXHIBIT 1304: Chart showing trend in prices,  
Raw Silk Market, 1931-1936.

EXHIBIT 1305: Extension of Exhibit 820 - No. 10's -  
Single Cotton Yarn.

EXHIBIT 1306: Extension of Exhibit 821 - Mill Spread  
Single Cotton Yarn.

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EXHIBIT 1307: Extension of Exhibit 822 - No. 30's  
Twisted Cotton Yarn.

EXHIBIT 1308: Extension of Exhibit 823 - Mill Spread  
Twisted Cotton Yarn.

EXHIBIT 1309: Extension of Exhibit 824 - No. 30's  
Cotton warp Yarn.

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EXHIBIT 1310: Mill Spreads on 30's cotton warp  
yarn, Canada & U.S.A. 1926 to 1936.





- 5 EXHIBIT 1311: Extension of Ex. 835 - 30's single hosiery yarns.
- EXHIBIT 1312: Extension of Ex. 826 - Mill Spread Hosiery Yarns.
- EXHIBIT 1313: Extension of Ex. 829 - Sheeting 40"
- EXHIBIT 1314: Extension of Ex. 830 - Mill spread Sheeting, 40"
- EXHIBIT 1315: Extension of Ex. 832 - Sheeting 36"
- EXHIBIT 1316: Extension of Ex. 833 - Mill spread - Sheeting - 36".
- 10 EXHIBIT 1317: Extension of Ex. 831 - Cotton Print Cloth, 44".
- EXHIBIT 1318: Mill Spreads on Ex. 831 and 1317, United States.
- EXHIBIT 1319: Statement of selling prices, United States, raw cotton, cotton yarn and cotton grey goods, 1936.
- 15 EXHIBIT 1320: Statement of fair market value in United Kingdom of 22½ oz. blue serge and Canadian duties applicable, July 10, 1933, together with sample and also Paton Manufacturing Co. cloth #4556.
- EXHIBIT 1321: Average Hourly earnings, 1926-1936, Silk Division.
- 20 EXHIBIT 1322: Average Earnings in Pay Period, 1926-1936, - Silk Division.
- EXHIBIT 1323: Average Earnings in Pay Period, 1926-1936, - Cotton Division.

MR. McRUER: And I received a letter yesterday,

25 which I think I should put before your lordship.

It is from the Executive's Secretary of the Canadian Association of Garment manufacturers. They have indicated certain things that they wanted drawn to

30 your lordship's attention. Mr. Learie appeared before the Commission in Montreal, I think, as a



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I think I have

witness.

MR. BERRY: No, he did not appear.

MR. McRUER: Well, someone appeared at any rate for him.

5 MR. BERRY: No.

MR. McRUER: Oh, yes.

MR. BERRY: The only witness was Mr. Levi, and he was not of that organization; he was a manufacturer himself.

10 MR. McRUER: He was a member of the Association, was he not?

MR. KELLOCK: He was of the National Women's Wear Association, my lord.

15 THE COMMISSIONER: That is something different. What is this Association, Mr. McRuer?

MR. McRUER: This is the Canadian Association of Garment Manufacturers. He simply asks this:

20 "You will remember that I stated to you the desire of the trade to co-operate with you in every possible respect, and following the activities of the Commission closely, and speaking for the organized clothing trade,

25 I desire to ask that you do not accept, as indicative of wages paid in the garment industry, the wages disclosed as being paid in the primary textile guild.

30 For the Commission's information I am attaching herewith a record of the wages paid in



Mr. Brad: Will, someone suggested at any time

Mr. Brad: No.

Mr. Brad: Oh, yes.

Mr. Brad: The only witness was Mr. Levy, and he

was not of that organization; he was a manufacturer

Mr. Brad: He was a member of the association,

was he not?

Mr. Millon: He was of the National Council's

Association, my lord.

THE COMMISSIONER: That is a serious difference.

Mr. Brad: This is the Canadian Association

of garment manufacturers. We simply were not

You will remember that I stated to you

the desire of the trade to co-operate with you

in every possible respect, and following

the activities of the Commission closely, and

appearing for the organized clothing trade,

I desire to ask that you do not accept, as indic-

of wages paid in the garment industry, the wages

disclosed as being paid in the primary textile

will.

Attaching herewith a record of the wages paid in

the men's clothing trade in the cities of Toronto and Montreal, and in addition I may inform you that in the cloak and suit and men's clothing industry in both Ontario and Quebec, there are codes in force, under the law, establishing wages upon standards very much higher than in industries where no such control exists.

In addition may I say that codes are now being discussed and negotiated in the work garment industry of Quebec, and will also be adopted in Ontario, and may I pray that when the Commission is determining its verdict that it will disassociate the garment industry from the fabric industry in any recommendations it may make in respect of tariffs.

Should you desire any further information, I am at your service."

And the enclosure is here, my lord.

THE COMMISSIONER: Have you shown this to counsel?

MR. McRUER: No, it just came in last night.

THE COMMISSIONER: Perhaps you had better speak to it again.

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the men's clothing stores in the cities of Toronto  
and Montreal, and in addition I may inform you that

in the cloak and suit and men's clothing

industry in both Ontario and Quebec, there are

codes in force, under the law, establishing

standards upon which the very much higher than in

industries where no such standard exists.

In addition may I say that codes are not

being discussed and negotiated in the work

garment industry of Quebec, and will also be

discussed in Ontario, and may I say that when

the Commission is determining its verdict that it

will disassociate the garment industry from the

textile industry in any recommendations it may

make in respect of textile.

Should you desire any further information,

I am at your service.

and the enclosure is herewith, my friend.

Very respectfully: Have you shown this to your

Mr. Brown: No, it has not been shown to him.

THE COMMISSIONER: Perhaps you had better speak

to it again.

ARGUMENT by MR. McRUER, K.C.

MR. McRUER: Yes. This brings me, my lord,  
5 to my argument in respect to the matter that we  
have been investigating over the past months, and in  
opening my argument I wish first to pay a most sincere  
tribute to the members of the Commission's staff,  
10 and especially to those members of the staff who  
belong to the permanent civil service. I am sure  
that no commission could be better served by a secre-  
tarial staff than this commission has been served by  
Mr. Whiteley and by Mr. Rene, both in efficiency and  
15 courtesy, and I am sure that when I say this I  
express the appreciation of all counsel engaged.  
I would also mention Mr. Hooper for his work in the  
extremely difficult problem that he had to handle as  
a tariff expert, and I can assure your lordship  
20 that the work of the staff has made the work of  
counsel very much lighter and more pleasant by  
reason of their efficiency, those that we have had  
from the civil service and those otherwise attached  
25 to the commission. Without any flattery whatever  
I wish to express my personal appreciation of my  
very pleasant associations over the past <sup>year</sup> ~~month~~  
with my learned friend, Mr. Beauregard, and also with  
30 all counsel that have been engaged before the  
commission. We have our respective duties to perform



STATE OF NEW YORK

MR. BRYAN: Yes, this is the case, my friend.

to my mind in respect to the matter to be

have been investigating over the past few years, and in

opening up argument I wish like to say a word about

tribute to the members of the Commission's staff,

and especially to those members of the staff who

belong to the permanent civil service. I am sure

that no commission could be better served by a more

thorough staff than this commission has been able to

the Ministry of the Interior, both in efficiency and

country, and I am sure that when I say this I

express the appreciation of all concerned on this

I would also mention Mr. Rogers for his work in the

extremely difficult position that he has to handle so

a difficult report, and I am sure that his

that the work of the staff is more than made up

concerned with work in the past and future

work of the staff, and I am sure that

from the civil service and the Commission's staff

to the Commission. I am sure that the staff

I am to express my personal appreciation of the

very pleasant associations over the past years

and my sincere wishes for the future

all of them, and I am sure that

Commission, and I am sure that

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in presenting the matters that appear to us, and I am sure that there has been nothing whatever unpleasant arising during all the months of the hearings.

5 - I have filed with the secretary, and my friend Mr. Beauregard has also filed with the secretary a brief in respect to different aspects of the matters committed to the commission by the order in council, as we have agreed between ourselves to handle them.

10 Mr. Beauregard has taken on the very important task of handling and presenting to the commission those aspects of the evidence that deal with the affairs of the employees, the relations of the employees with the industry, working conditions and all matters that  
15 pertain to the welfare of the working men.

I have undertaken to present those other aspects of the industry which I think ought to be brought to the attention of your lordship from the evidence.

20 The order in council that authorized this commission was an extremely broad one. I have taken the trouble in my brief at the first page to analyze the order in council, at any rate to a limited degree. Had we attempted to cover all that was committed to the commission by the order in council in the broadest  
25 sense we might never have lived to terminate the labours of the commission, but we have rather covered it in another sense; that is, not seeking to go down every avenue that might open up under the order in council, but we have dealt with it in a broad way so  
30 that we might cover substantially the matters raised.



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In the first place the appointment of this commission developed out of the action of the Dominion Textile Company Limited in closing down the Rayon division of the Sherbrooke branch of the company. It arose immediately out of that closing, and on receipt of a telegram from Mr. Deslauriers, the city clerk of the city of Sherbrooke. The order in council shows that reports had appeared in the press that uncertainty in the textile market, due in large part to Japanese competition in artificial silks had forced the Dominion Textile Company to close its plant at Sherbrooke, and that the plant would remain closed until the situation in the industry had been clarified.

Now what appeared to the government apparently was that the closing of this plant had been forced by Japanese competition, and that it was then the intention of the company to keep the plant closed indefinitely until the situation in the industry had been clarified.

It is shown that it came to the attention of the government that Mr. Gordon had sent a telegram to the Montreal Gazette in which he had said, "Hope to reopen when we can see possibility of manufacturing goods which can be sold." After sending a representative to Sherbrooke the government concluded that it was necessary to have an investigation by a Royal Commission which would go into all matters on a broader scale than could be done by an investigation



in the first place the appointment of this

committee composed out of the cotton of the

Domestic Textile Company which is located in the

upper division of the Japanese branch of the cotton

It arose immediately out of that closing, and as

majority of a Japanese firm, Domestics, the

city ahead of the city of Hiroshima. The other

is usually shown that reports had appeared in the

that necessarily in the textile market, the in fact

part to Japanese competition in artificial silk had

formed the Domestic Textile Company to close in

the case of Domestics, and that the firm would have

closed until the situation in the industry had been

clarified.

Now what appeared to the government was

was that the closing of that plant had been forced

Japanese competition, and that it was then the last

tion of the company, and that plant closed. It was

initially until the situation in the industry had been

clarified.

It is known that it came to the attention of

the government that Mr. Gordon had sent a telegram

to the Montreal Gazette in which he had said, "I am

to us when we can see possibility of manufacturing

goods which can be sold." After sending a telegram

relative to the situation in the industry, the government

was convinced to have an investigation of the

Domestics plant which would include all matters

relative to the plant and to the industry as a whole.

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by the tariff board, and the Minister reported to council with certain observations which I think are pertinent to our consideration of the evidence which has been put before the commission.

In the Minister's report he observed that acute distress and suffering of wage earners and their dependents necessarily followed the cessation of their labours which resulted from the closing down of the mills, and he was of the opinion that industry generally, especially an industry which had had for years the benefit of protection afforded by the customs tariff should recognize its responsibility to carry on operations with due regard to its obligations to its employees and <sup>not</sup> to arbitrarily shut down its plants.

Now one of the things that I shall have to consider in presenting the evidence to your lordship is whether the Minister was justified in that opinion that there was an obligation on an industry, especially one which for years had enjoyed the benefit of protection afforded by the customs tariff, to keep its plant going and not to arbitrarily close it down under the circumstances that confronted the owners of this industry, and that is what the government had before it at that time.

The remainder of the order in council makes it clear that in studying the evidence from that point of view we are following the proper course, for the purpose of determining the responsibility of employers and to enable appropriate action to be



by the tariff board, and the Minister reported to  
council with certain observations which I think are  
pertinent to our consideration of the evidence which  
has been put before the commission.

In the Minister's report he observed that cer-  
tain distress and suffering of wage earners and their  
dependents necessarily followed the cessation of  
their labour which resulted from the closing down  
of the mills, and he was of the opinion that industry  
generally, especially an industry which had not  
years the benefit of protection afforded by the  
tariff, should recognize its responsibility  
to carry on operations with the least possible  
loss to its employees and to the community.  
Ministerially shut down its plants.

Now one of the things that I want to  
consider in considering the evidence to your Lordship  
is whether the Minister was justified in that opinion  
that there was an obligation on an industry, es-  
pecially one which for years had enjoyed the benefit  
of protection afforded by the customs tariff, to  
keep its plant going and not to arbitrarily close  
it down under the circumstances that confronted the  
owners of this industry, and that is what the  
Government had before it at that time.

It is clear that in studying the evidence from that  
point of view we are following the proper course,  
and we are of course determining the responsibility

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taken with regard to the interests of the public,  
the employees and the industry itself.

Now that is the purpose of this commission, to  
enable appropriate action to be taken after having  
determined the responsibility of the employers,  
having regard to the interests of the public, the  
employees and the industry itself. The order in  
council goes on to say, "It appears essential  
that the government be fully advised."

Now these are the matters which the order in  
council suggests ought to be fully investigated  
and the government be fully advised on, these are  
the matters that I have done the best I could to  
direct my attention to in the preparation of this  
brief:

(1) What protection has been afforded to  
the textile industry by the customs tariff in  
the past?

That is, what actually have they enjoyed in the  
way of protection in the past? Next:

(2) Has the textile industry recognized its  
obligations to the public and to its employees?

That portion has been substantially dealt with  
by my associate, Mr. Beuregard, and will be  
reported upon when he presents his argument. Next:

(3) Has it arbitrarily shut down its plants?

I shall discuss that. And next:

(4) What is the responsibility of employers  
in protected industries in regard to the interest



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...with regard to the interests of the public,  
the employees and the industry itself.  
Now that is the purpose of this committee, to  
...to action to be taken after having  
...to the interests of the public, for  
having regard to the interests of the public, for  
employees and the industry itself. The order  
...to say, "It appears essential  
that the government be fully advised."  
Now these are the matters which the order in  
...to be fully investigated  
...the government be fully advised on, where  
the matters that I have done the best I could to  
direct my attention to in the preparation of the  
brief:  
(1) What protection has been afforded to  
the textile industry by the customs tariff in  
the past?  
...what actually was they enjoyed in the  
way of protection in the past? Next:  
(2) Has the textile industry recognized its  
obligations to the public and to its employees  
...has been substantially dealt with  
...Mr. Rosenberg, and will be  
reported upon when a permanent statement  
(3) Has it sufficiently laid down its  
I shall discuss that. And next:  
(4) ...in regard to the industry

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in regard to (a) the public, (b) the employees,  
(c) the industry.

5 The last matter involves a great deal, and  
that I shall discuss a little bit later -- the  
responsibility of those engaged in industry that  
receives from the government the privilege of  
tariff protection. What is their responsibility  
to the public as a whole first, and that is the  
10 consuming public and the general public who may  
be affected by their operations; and secondly, what  
is their responsibility as to their employees and  
to those that may be engaged or have a financial  
interest in the industry.

15 And this inquiry is for the purpose of advising  
the government in order that sound conclusions may  
be reached in respect to these matters in regard  
to the future. I think that those words in the  
order in council are extremely important in  
20 governing our consideration of the evidence. That  
is, the reference to sound conclusions that are to  
be reached by the government. Out of this investi-  
gation the government appears to hope to be able to  
reach conclusions that will be for the national  
25 benefit in regard to the course that it will take  
in the future. In order to enable them to do so  
we have been asked to investigate tariff protection;  
investments; profits; wages; salaries and bonuses;  
costs; volume of production; British and foreign  
30 competition. We have attempted, I and my  
associate, Mr. Beauregard, in our briefs, to cover





5 these items. Out of it all there should be something develop that will indicate what responsibilities employers have to maintain employment over periods of temporary difficulty, after they have experienced prosperous times and the owners have profited a great deal by carrying on the industry under tariff protection in times of prosperity. Is it right when they are in the position where they may reap the benefits of prosperity by virtue of the privileges given to them under the customs tariff, that they should when they come to times of difficulty shift the load and responsibility of maintaining their employees on to other shoulders ?

10 I do not think I need to enlarge upon the agreement that was entered into between Canada and Japan, which immediately preceded this difficulty that occurred in January 1936 more than to say this, that Canada had negotiated a treaty, and I shall have something to say about the negotiations in a moment.

15 THE COMMISSIONER: Did not the treaty become effective on December 26, 1935 ?

20 Mr. McRUER: It became effective January 1, 1936, my lord.

THE COMMISSIONER: I am referring to the date given in your brief.

Mr. McRUER: That is an error on page three.

30 THE COMMISSIONER: It says "which became



those items. Out of all these should be

something developed that will indicate that response

which has been given to certain employment

over a period of temporary difficulty, after they

have experienced a period of time and the owners

have received a great deal by carrying on the

industry under tariff protection in times of cross-

unity. Is it right when they are in the position

where they may reap the benefits of prosperity by

virtue of the privileges given to them under the

a tariff tariff, that they should when they come to

times of difficulty shift the load and responsi-

bility of maintaining their cash flows on to other

elements?

I do not think I need to elaborate upon the

argument that was entered into between Canada and

Japan, which incidentally preceded this difficulty

that occurred in January 1938 more than to say this

that Canada had negotiated a treaty, and I recall

have some time to say about the negotiations in a

moment.

The Commission did not the treaty before

effective on December 28, 1937?

My answer is that the treaty was not

1936, my lord.

The Commission is I am referring to the date

given in your brief.

Mr. Brydies: That is an error on page three.

The Commission: It says "which became

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effective on the 26th December, 1935." That is an error, is it ?

5 Mr. McRUER: That is an error. That should be the 1st of January, 1936. It is so stated in the last paragraph of the letter on page 4.

THE COMMISSIONER: That is what I thought.

Mr. McRUER: Yes, that is correct.

10 Now the matter that became of immediate interest to the textile industry in Canada was the fact that the trade agreement between Canada and the United States also became effective on the 1st of January, 1936, and under the provisions of that trade agree-  
15 ment the fixed valuation on artificial silk was no longer effective between Canada and the United States, and Japan, enjoying a most favoured nation treaty with Canada was entitled to the same benefits, so that the fixed valuation of \$1.25 per pound on  
20 artificial silk was no longer effective.

Mr. KELLOCK: That is paragraph 4 in the same letter ?

25 Mr. McRUER: Yes, I shall deal with that. Before dealing with what I might call the result of this agreement, I want to direct your lordship's attention to the situation that presented itself to the government at the time that it entered into an agreement with Japan to adjust the valuation of the  
30 yen from 49.85 cents down to 39.5 cents, with a scale of further adjustments that took place in succeeding years according to the terms of the



effective on the 25th December, 1936. That is

an error, is it?

Mr. WATSON: That is an error. That should be

the 1st of January, 1936. It is so stated in the

last paragraph of the letter on page 4.

THE COMMISSIONER: That is what I thought.

Mr. WATSON: Yes, that is correct.

Now the matter that became of immediate interest

to the textile industry in Canada was the fact that

the trade agreement between Canada and the United

States also became effective on the 1st of January,

1936, and under the provisions of that trade agree-

ment the fixed valuation on artificial silk was no

longer effective between Canada and the United

States, and Japan, enjoying a most favoured nation

treaty with Canada was entitled to the same com-

as that the fixed valuation of 12.25 per pound on

artificial silk was no longer effective.

Mr. WATSON: That is paragraph 4 in the same

letter?

Mr. WATSON: Yes, I shall deal with that. Before

dealing with what I might call the result of this

agreement, I want to direct your attention to the

tion to the situation that presented itself to the

Government of the time that it entered into an

agreement with Japan to adjust the valuation of the

from 12.25 cents down to 9.5 cents, with a

and in the meantime that there was in

the same time a reduction in the value of the

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letter.

At page 6 of my brief I have referred to exhibit No.666, which is an exhibit prepared from the trade statistics of the Dominion of Canada, showing the trade between Canada and Japan.

In the brief submitted by my friend Mr. Kellock in dealing with Japanese trade there was a suggestion, I rather judged from reading it, that while the trade with Japan did not amount to much and was not a thing to worry about much from a national point of view, that taking the average over a period of forty years or something like that -- and I do not think it is quite fair to deal with trade as it has averaged over a period of forty years --

MR. KELLOCK: That was not my argument.

MR. McRUER: Well, there it is anyway. At any rate the trade with Japan was an important factor in our national life. Canada is a country that must necessarily prosper on export trade. We have not yet reached the stage of consuming all that we produce in this fertile dominion. Exhibit No.666 shows that from 1922 to March 31, 1935, Canada exported to Japan goods to the value of \$325,128,460, while Canadian imports direct from Japan amounted to \$114,317,970.

Now it is suggested in my friend Mr. Kellock's brief, and quite fairly suggested in my opinion, that you cannot accurately measure the imports from Japan by taking the trade figures for Canada as showing the whole story on account of the fact that for some



letter.

At page 6 of my brief I have referred to exhibit No. 666, which is an exhibit prepared from the trade statistics of the Dominion of Canada, showing the trade between Canada and Japan.

In the brief submitted by my friend Mr. Kellock in dealing with Japanese trade there was a suggestion, I rather judged from reading it, that while the trade with Japan did not amount to much and was not a thing to worry about much from a national point of view, that during the years over a period of forty years or something like that -- and I do not think it is quite fair to deal with trade as it has averaged over a period of forty years --

MR. KELLOCK: That was not my argument.

MR. BRYDIE: Well, there it is anyway.

My rate the trade with Japan was an important factor in our national life. Canada is a country that has necessarily prospered on export trade. We have not yet reached the state of a commanding all that we produce in this fertile Dominion.

Shows that from 1922 to March 31, 1935, Canada exported to Japan goods to the value of \$23,152,460.

It is in my opinion, as my friend Mr. Kellock's statement, and also fairly presented in my opinion, that the export of goods to Japan is a very small part of our total exports.

years at any rate raw silk has been imported into Canada through the United States, and that a great portion of this raw silk originates in Japan. There is no doubt that a great portion of it does. We do not know just how much of it does, but I am quite prepared for the purpose of illustration, and I am merely dealing with it as a fact that exists -- I am quite prepared to add to the \$114,317,000 the value of all the raw silk that has been imported through the United States of Japanese origin, which would make the total importations from Japan over that period \$161,000,000 as against exports to Japan of \$325,000,000.

THE COMMISSIONER: Then you have succeeded in finding out the value of all the raw silk imported ?

Mr. McRUER: No, we cannot say it all came from Japan, but I have taken all the raw silk that came from the United States and said, "assume it comes from Japan, then this is the figure."

THE COMMISSIONER: About \$47,000,000.

Mr. McRUER: About \$47,000,000, and I have added that to the \$114,000,000.

THE COMMISSIONER: Making what ?

Mr. McRUER: \$161,052,198.

Mr. KELLOCK: In one case it is from 1922, and in the other from 1926.

Mr. McRUER: Quite right. There are four years for which we have no figures whatever on the raw silk coming in from the United States, but this is true, that the majority of importations of raw silk from the



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years of any rate. The silk has been imported into  
Canada through the United States, and that a great  
portion of this raw silk originates in Japan. There  
is no doubt that a great portion of it does. We do  
not know just how much of it does, but I am pretty  
wired for the purpose of illustration, and I am merely  
feeling with it as a fact that exists -- I am quite  
prepared to add to the \$114,327,000 the value of all  
that raw silk that has been imported through the United  
States of Japanese origin, which would make the total  
importations from Japan over that period \$151,000,000  
as against exports to Japan of \$36,000,000.  
THE CHAIRMAN: Then you have succeeded in  
establishing the value of all the raw silk imported?  
MR. WATSON: No, we cannot say it all comes from  
Japan, but I have taken all the raw silk that came  
from the United States and said, "assume it comes from  
Japan, then this is the figure."  
THE CHAIRMAN: About \$47,000,000.  
MR. WATSON: About \$47,000,000, and I have added  
that to the \$114,300,000.  
THE CHAIRMAN: Making what?  
MR. WATSON: \$151,000,000.  
MR. WATSON: In one case it is from 1932, and  
the other from 1933.  
MR. WATSON: Quite right. There are four years  
which we have no figures whatever on the raw silk  
imported in from the United States, but this is true,  
that the majority of importations of raw silk from the

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United States, that the importations from the United States became very much heavier after the excise taxes were put on.

5 THE COMMISSIONER: You mean our excise tax ?

Mr. McRUER: Yes, and it was in the last few years that the heavy importations of raw silk came from Japan. Whether much came in from 1922 to 1926 I cannot say, but it is not likely to have been a matter  
10 of great consequence.

THE COMMISSIONER: About this excise tax, did it apply to all countries ?

Mr. McRUER: All but Great Britain.

THE COMMISSIONER: Why then do you mention it in  
15 reference to a great deal more silk coming in from the United States after the excise tax ?

Mr. McRUER: The excise tax would be imposed on the fixed valuation of the yen at the higher price, but if the goods were imported from the United States  
20 they paid excise tax on the American rate of exchange. I would also remind your lordship that the broad silk industry only commenced in this country about 1923.

THE COMMISSIONER: 1923 ?

Mr. McRUER: Yes, my lord. I think my figures  
25 on page 6 give a pretty accurate picture, but if my friend wants to add another million dollars or two to the \$161,000,000 it does not make much difference because I am stating the position the government was in during the fall of 1935 when they took this action that  
30 was so severely criticized by the textile industry, and



...from the United States ...  
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...years that the heavy ...  
...from Japan. ...  
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which brought about the course of action which they adopted.

On page 6 your lordship will notice that in 1929 the exports to Japan had mounted to as much as \$42,000,000 and the imports from Japan, including the raw silk coming through the United States, amounted to \$19,000,000. During that year Canada's export trade with Japan amounted to 3.09 per cent of her total export trade, and in 1930 it amounted to \$30,475,000, while the imports from Japan, including all raw silk imported through the United States amounted to \$18,140,000.

Then after the heavy duties were imposed in 1930 we find that there was a drastic drop in the value of our external trade with Japan. In 1935 our exports amounted to \$16,000,000 as against imports of \$4,424,000 direct, or, if you add the raw silk imported through the United States, \$8,088,715. So that this was the fact that faced those responsible for the government of the nation at that time.

2 On page 8 I have given your lordship the different items that show the severest decline, and these were not items that a nation like Japan might require in one year and not in another but are goods that she must have from some market. Take lead in pigs. Over the five-year period ended March 31, 1930, exports to Japan amounted to \$18,400,000; ~~xx~~ \$6,000,000 for the subsequent five-year period. Wheat is an important item, and the exports to Japan for the first five-year period amounted to \$65,556,000, and for



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which brought about the change of action which they  
needed.

In 1950 a year which will never be forgotten  
the exports to Japan had amounted to \$1,100,000,  
and the imports from Japan, including the new silk  
coming through the United States, amounted to \$1,100,000.  
During that year Canada's current trade with Japan  
amounted to \$2.00 per cent of her total export trade.  
and in 1950 it amounted to \$1,475,000, while the  
imports from Japan, including all new silk imported  
through the United States amounted to \$1,140,000.

So that there was a drastic drop in the value  
of our external trade with Japan. In 1950 our ex-  
ports amounted to \$1,100,000 as against imports of  
\$1,475,000, or, if you add the new silk  
imported through the United States, \$1,140,000.  
So that this was the first time that Japan had  
for the government of the United States.

On page 2 I have shown your foreign trade situation  
which show the movement of the dollar and there were  
not items that a nation like Japan might require in  
one year and not in another but are goods that are  
not have from some source. Take food in place.  
over the five-year period ended March 31, 1950,  
exports to Japan amounted to \$1,400,000; and for  
for the independent five-year period. There is an  
important item, and the exports to Japan for the five-  
year period ended March 31, 1950, and for

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the last five-year period \$14,988,000. Wood pulp also shows a decline, as does zinc spelter.

5 The next table, which was taken from exhibit No. 668, from The Oriental Economist, shows that Japan had changed their policy in regard to the country from which she would buy wheat over that period of six years. The paper shows the importations of wheat from Australia, Canada, America and other countries 10 from 1929 to 1935, and the imports are given in 1,000 piculs. I do not know what a picul is, but the imports are given in 1,000 piculs.

THE COMMISSIONER: That figure, 6,649 for Canada for 1929 means 6,649,000 ?

15 Mr. McRUER: Yes, my lord, and in 1930 it was 2,957,000, while the importations from Australia have increased from 2,402,000 in 1929 to 8,554,000 in 1931. In 1932 the importations from Australia were 10,264,000 and 1,983,000 from Canada. Then we come down to 1935 20 when Canada was exporting only 881,000 while Australia was exporting 5,558,000.

THE COMMISSIONER: I have heard in another forum that a great deal of the decline in our wheat exportations as compared with those of Australia to Japan 25 is due to the exchange value of the Japanese currency which gives Australia an advantage. I do not know whether that would apply here or not. I just mention that in passing.

30 Mr. McRUER: At any rate this is the fact that was confronting the Canadian government in the fall of



the last five-year period \$14,988,000. Wood also shows a decline, as does also exhibit. The next table, which was taken from exhibit from The Oriental Economist, shows that Japan had a large surplus in regard to the country from which she would buy wheat over that period of six years. The paper shows the importations of wheat from Australia, Canada, America and other countries from 1925 to 1930, and the imports are given in 1,000 bushels. I do not know what a bushel is, but the imports are given in 1,000 bushels.

The conclusion: That figure, 6,669 for Canada for 1929 means 6,669,000? Mr. Rost: Yes, it is, and in 1930 it was 6,987,000, while the importations from Australia were 2,402,000 in 1929 to 2,554,000 in 1930. In 1929 the importations from Australia were 10,264, and 1,982,000 from Canada. When we come down to 1930 when Canada was exporting only 221,000 while Australia was exporting 2,556,000.

Now, I have shown the figures from the last five years in regard to the wheat trade between Australia and Japan. I have also shown the figures in regard to the wheat trade between Australia and Canada. I do not know whether this gives Australia an advantage. I just mention that I would apply here or not. I just mention that I would apply here or not.

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1935, that the exports of wheat to Japan were at their very lowest point. It may be that the exchange had something to do with it, but I would think that putting a valuation of 49 cents on the yen that was worth 29 cents when things were brought in from Japan would not help the exchange situation between Canada and Japan. At any rate there was an additional feature, and that was prior to July, 1935. The Japanese government had taken the attitude that our trading relations were unfair, and they took the attitude: We are not going to deal with you in respect to about half the articles that we are importing from Canada at the present time. They threatened to put on a surtax, and the matter was then before the government for consideration. Now the attitude of the textile industry at that time is something for us to consider.

Did the textile industry come to the government and take this attitude? "We will see what we can do about it to help relieve the situation." Well, on June 13, 1935, Mr. Dawson, representing Canadian Cottons, wrote a letter to the Minister of Trade and Commerce in which he said:

"As I stated in one of my earlier letters, largely because of British competition, we are only able to operate our mills at the present time from three to four days per week, and, therefore, it is quite clear that if we have to reduce our production further still, because of Japanese competition, our workers will be



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1935, that the average of about 1000 was at the  
very lowest point. It may be that the exchange had  
something to do with it, but I would not like to  
put it as a valuation of 40 cents on the yen that was  
worth 35 cents when things were brought in from  
Japan would not help the exchange situation between  
Canada and Japan. At any rate there was an addition  
to the yen value in 1935, and  
Japanese government had taken the attitude that our  
existing relations were unfair, and they took the  
attitude; we are not going to deal with you in  
respect to a tariff on the articles that we are im-  
porting from Canada at the present time. They  
threatened to put on a tariff, and the matter was then  
before the government for consideration. At the  
present time of the tariff industry in that time is  
assessing for us to consider.  
And the tariff industry came to the government  
and made this statement: "We will see that we can  
do about it to help relieve the situation." Well,  
in June 15, 1935, Mr. Bennett, representing the  
Cottons, wrote a letter to the Minister of Trade and  
Commerce.  
"As I stated in one of my earlier letters  
largely because of British competition, we are  
only able to produce our mill at the present  
time from three to four days per week, and  
therefore, it is quite clear that if we have to  
reduce our production further still, there is

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drawing starvation wages and the industry  
itself will be in extreme danger of annihilation."

In the first place we will have to consider whether Mr.  
Dawson was making a fair and frank statement to the  
5 minister at that time as to the position of the com-  
pany's mills on June 12, 1935. We will have to consider  
whether it was a fair thing to threaten the minister  
that any alteration in the tariff would be taken out  
on the workmen in that the workmen's wages would be  
10 reduced to the point of starvation. That is the only  
deduction any minister who was in the position that  
Mr. Hanson was in at that time could draw from that  
letter, and I have no doubt that it was intended that  
way. Mr. Dawson was pointing out: That will be  
15 the result if there is any change.

THE COMMISSIONER: He says:

"If we have to reduce our production  
further still."

20 He says that if they have to reduce the number of  
working days per week that will bring down the  
earnings of the workers. He says that they are only  
able to operate their mills at the present time from  
three to four days per week, and I therefore take it  
25 that he means: We may have to reduce our working  
days, in which case our workers will be drawing  
starvation wages, and the industry itself will be in  
extreme danger of annihilation. I take it that ~~in~~ he  
rather means that, he will have to reduce the number  
30 of working hours per week, and therefore reduce the  
aggregate wages per week paid to the employees.





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MR. McRUER: That may be.

THE COMMISSIONER: I think that is the more favourable in interpretation to put on the letter from his point of view.

MR. McRUER: Yes. At any rate, it was a statement to the effect that if there was Japanese competition the workmen were the ones who would have to suffer.

Now the position at that time was that on a 25-cent article bought in Japan the duties payable amounted to \$1.53 $\frac{1}{2}$ , and in addition the Canadian importer would have to pay the cost of transportation from Japan. Well, the diplomatic negotiations were not successful, and the Japanese put on a surtax of 50 per cent on these articles listed on page 9 of my brief. The result was that Canada lost a market for goods that had amounted in the year 1924 to \$7,000,000, and in more prosperous years to a very great deal more than that.

The situation was further complicated by the fact that the Canadian government then retaliated with a 33-1/3 per cent surtax on goods imported from Japan into Canada. That had an injurious effect on Canadian trade. The raw silk, for instance, that was imported into Canada, was not grown here; we did not have silk worms in Canada, and the result was that a surtax of 33-1/3 per cent was imposed on this raw material. That disturbed the weavers in Canada very much. The consumers probably were not as well



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Mr. Brydie: That was it.

THE CHAIRMAN: I think that is the more

favorable in expectation to get on the letter from

the point of view.

Mr. Brydie: Yes. At any rate, it was a slight

step to the effect that if there was a decrease in

petition the workers were the ones who would have

to suffer.

Now the position of the time was that on a 25-

cent extra duty in Japan the duties payable

amounted to \$1.50, and in addition the Canadian in-

porter would have to pay the cost of transportation

from Japan. Now, the duties payable

not successful, and the response was on a 25-

of 20 per cent on these articles listed on page 2

of my list. The result was that Canada lost a

great deal of goods that had amounted in the year 1939

to \$1,000,000, and in more prosperous years to a

great deal more.

The situation was further complicated by the

fact that the Canadian Government had decided

with a 25-1/2 per cent extra duty on goods imported from

Japan into Canada. That had an important effect on

Canadian trade. The net result, for instance, that

was imported into Canada, was not from Japan; no 25-

not have any effect in Canada, and the result was

a matter of 25-1/2 per cent was imposed on this

material. That disturbed the workers in Canada very

much. The workers in Canada were not well

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organized as the weavers to put their views forward. At any rate the weavers, represented by Mr. Hallam and Mr. Marx, had much serious discussion about it, and Mr. Hallam in exhibit No. 454, sets out very clearly the injury that this was doing to the Canadian weavers. He points out: We have to have raw silk anyhow, and the fact that you put a dut. of 32-1/3 per cent on Japanese raw silk is not penalizing Japan at all, because we cannot get the silk any other place and it therefore simply means that you are penalizing the Canadian industry.

It was stated that they had brought this to the attention of the government by telephone and telegram and memorandum, but that nothing had been done.

That was one of the matters that faced the government in the fall of 1935, as to whether they would take any action. Would they leave on the surtax of 32-1/3 per cent applied on all Japanese goods and have Japan's surtax of 50 per cent kept on applying to those goods that were covered by the Japanese order? That was the fact that had to be dealt with.

We sometimes have a mistaken idea, I think, about what a little competition may do to industry in Canada. It is suggested that anything that does away with one dollar's worth of sales, if you take away from a Canadian mill a market for one dollar's worth of goods and give it to a Japanese merchant, you have destroyed Canadian industry to that extent.



organized as the weavers to put their views forward.  
At any time the weavers, represented by Mr. Hellen  
and Mr. Mark, had their serious discussion about it,  
and Mr. Hellen in Exhibit No. 444, were not very  
clearly and injury that this was done to the weavers.  
He points out: We have to have the silk  
anyhow, and the fact that you put a duty of 4-1/2  
per cent on Japanese raw silk is not generalizing Japan  
at all, because we cannot get the silk any other place  
and it therefore simply means that you are penalizing  
the Canadian industry.

It was stated that they had presented this to the  
attention of the government by telegrams and letters  
and memoranda, but that nothing had been done.  
That was one of the matters that faced the  
government in the fall of 1933, as to whether they  
would take any action. Would they leave on the  
duty of 4-1/2 per cent applied on all Japanese  
goods and have Japan's duty of 50 per cent kept on  
applying to those goods that were covered by the  
Japanese tariff? That was the fact that had to be

no sometimes have a mistaken idea, I think,  
that what a little competition may do to industry is  
harmful. It is suggested that anything that does  
harm with one dollar's worth of sales, if you take  
from a Canadian will a market for one dollar's  
worth of goods and give it to a Japanese market,  
you are really penalizing Canadian industry in that way.

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5 That is the suggestion. Well, on page 12 of my  
brief I have indicated that the total capital in-  
vested in the companies reporting to this commission  
amounted to \$146,873,000. Exhibit No. 666 shows that  
in the last ten years Canada's export trade with  
Japan amounted to \$230,000,000, and that is including  
the depression years. One can argue this way and  
that way from figures, but this does show that  
losing any foreign market by reason of having a sur-  
tax applied on your goods to a degree that you  
cannot get into that market at all, is a serious  
national affair. There may be a question of whether  
your buying goods from one country will bring about  
the sales of your goods to that country. Economists  
can go around in circles about these things, and one  
can do that on things like this very easily, but  
here there was no question of that. Here was a  
substantial market, good for \$7,000,000 worth of  
goods. We had been selling goods in that market to  
that amount annually, and very much more in some  
years. Then there was a surtax put on and the doors  
were closed, and the loss to those who were dependent  
on export trade for the sale of their goods was a  
serious one, and one that immediately confronted  
the government.

30 An agreement was arrived at, and the agreement  
that was arrived at was not anything that appeared  
on the face of it to be of a revolutionary charac-  
ter. The rate of exchange on the yen was fixed at



That is the explanation. Well, on page 12 of my  
brief I have indicated that the total amount in-  
vested in the countries reporting to this committee  
amounted to \$146,875,000. Exhibit No. 666 shows that  
in the last ten years Canada's export trade with  
Japan amounted to \$280,000,000, and this includes  
the depression years. One can argue this way and  
that way from figures, but this does show that  
losing any foreign market by reason of having a tax  
applied on your goods to a degree that you  
cannot get into that market at all, is a serious  
national effort. There may be a question of whether  
your buying goods from one country will offset some-  
the value of your goods to that country. Economists  
are so divided in opinion about these things, and one  
can do that on things like this very easily, but  
there was no question of that. There was a  
substantial market, good for \$5,000,000 worth of  
goods. We had even selling goods in that market to  
that amount annually, and very much more in some  
years. Then there was a barrier put on and the goods  
on export trade for the sale of their goods was a  
serious one, and one that immediately concerned  
the Government.

An agreement was arrived at, and the agreement  
that was arrived at was not anything that appeared  
in the face of it to be of a revolutionary charac-  
ter. The rate of exchange on the yen was fixed at

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39.5 cents, the value of the yen at that time being 29 cents. The fixed valuation was removed, but there still remained all the customs duties on a high scale, which had been adopted in 1930, and all the special duties, and the result was that the duties in effect after all the changes were higher than the duties on artificial silk articles imported into the United States, that after Canada had revised her trading relations between herself and Japan the Canadian manufacturers still had more protection than the American manufacturers had. Rayon fabrics sold at a higher price in the United States than they did in Canada for the most part, and it would be easier to undersell the American market.

THE COMMISSIONER: On page 9 you give an example of a pound of artificial silk fabric costing 25 cents in Japan, and then you show that all the duties on that put together amount to \$1.53 $\frac{1}{2}$ .

MR. McRUER: Yes, my lord.

THE COMMISSIONER: Have you shown how much a similar article would be taxed under the treaty?

MR. McRUER: Yes, on pages 13 and 14.

THE COMMISSIONER: You take the same article and show the present effect?

MR. McRUER: That is correct. Mr. Hooper points out that the article dealt with on page 9 is the December price.

THE COMMISSIONER: Is the December price?



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22.5 cents, the value of the yen at that time being  
25 cents. The fixed valuation was removed, but  
there still remained all the customs duties on a  
high scale, which had been adopted in 1880, and  
all the special duties, and the result was that the  
duties in effect after all the changes were higher  
than the duties on artificial silk articles imported  
into the United States, that after Canada had re-  
vised her trading relations between herself and  
Japan the Canadian manufacturers still had more  
protection than the American manufacturers had.  
Rayon fabrics sold at a higher price in the United  
States than they did in Canada for the most part,  
and it would be easier to undersell the American

THE COMMISSIONER: On page 9 you give an  
example of a pound of artificial silk fabric costing  
25 cents in Japan, and then you show that all the  
duties on that put together amount to \$1.55.

MR. MANN: Yes, my lord.  
THE COMMISSIONER: Have you shown how much a  
similar article would be taxed under the treaty?

MR. MANN: Yes, on pages 13 and 14.  
THE COMMISSIONER: You take the same article  
and show the present effect?

MR. MANN: Yes, my lord.  
THE COMMISSIONER: The article dealt with on page 9  
is the same article.  
THE COMMISSIONER: Is the present price?

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MR. McRUER: Yes, but without surtax.

THE COMMISSIONER: In 1935 ? Why without surtax? There was a surtax in force then.

5 MR. McRUER: We were showing the tariff protection that there was then before they got into the war

THE COMMISSIONER: You are going back there to June 1935 ?

MR. McRUER: Yes.

10 THE COMMISSIONER: I see. It might have been well if, taking the same article for the month of June 1935, you had dealt with it in the second place with the surtax in force, and in the next place under the new treaty.

15 MR. McRUER: I remember that Mr. Hooper's evidence was that with the surtax the protection amounted to 810 per cent. I remember that statement in the evidence. Mr. Hooper will look it up.

20 THE COMMISSIONER: I think it would be well to show the same article in the three positions: June 1935, and then say December 1935, and then to-day.

MR. McRUER: Yes, my lord.

25 Your lordship will see on pages 13 and to 14 of my brief a reference to exhibits Nos. 526/~~and~~ 528. These are comparative statements showing the duty payable on artificial silk fabrics imported into Canada and imported into the United States.

THE COMMISSIONER: That is on your other point?

MR. McRUER: That is on the other point.

30 THE COMMISSIONER: That the American duties are higher ?



Yes, but without a text.

In 1955? Yes, without

any text in force then.

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tion that there was then before they put into the

The Commission: You are going back there

June 1955?

Yes, my lord.

The Commission: I see. It might have been

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well if, taking the same article for the month of

June 1955, you had dealt with it in the second

with the statute in force, and in the next place

under the new treaty.

Mr. Justice: I remember that Mr. Justice

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evidence was that with the statute the protection

extended to 810 per cent. I remember that at one

in the evidence. Mr. Justice will look it up.

The Commission: I think it would be well to

in the same article in the three positions:

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June 1955, and then say December 1955, and then

Mr. Justice: Yes, my lord.

Your lordship will see on pages 11 and

to 12 of my brief a reference to evidence that the

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388. There are comparative statements showing

the duty payable on articles of the tariff

in Canada and imported into the United States.

The Commission: That is a very good point.

Mr. Justice: That is a very good point.

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The Commission: That is a very good point.

MR. McRUER: The Canadian duty was higher than the American duty after the treaty had been negotiated. We give the exact figures that would be payable on importations into the United States.

5 The duty ~~is~~ payable on importation into the United States would amount to \$118.29, and on importations into Canada to \$127.87; a total duty on an ad valorem basis on importation into the United States of 204 per cent as compared with a total duty on an ad  
10 valorem basis on importation into Canada of 221 per cent.

Then on June 15, 1936, the United States government reduced the rates on artificial silk fabrics, and under the new rate the duty payable  
15 would be \$108.34.

THE COMMISSIONER: Instead of \$118.29 ?

MR. McRUER: Yes, my lord, or on an ad valorem basis of 188 per cent, being 33 per cent less than the total Canadian duty calculated on an ad valorem  
20 basis. So that not only was the duty less at that time, but the American government reduced their duties after that, so that they were very substantially less. On a jacquard pattern which entered  
25 under different rates in Canada, the Canadian rate of duty ranged from one to ten per cent higher than the duties obtaining in the United States prior to June 15, 1936.

THE COMMISSIONER: Higher in Canada ?

30 MR. McRUER: Yes, so that it is made to appear rather that the Canadian government had taken some



Mr. McNair: The Canadian duty was higher than the American duty after the tariff had been negotiated. We give the exact figures that would be expected on importation from the United States. The duty on exports on importation from the United States would amount to \$115.00, and on importation into Canada to \$117.50; a total duty on an average of \$116.25. The United States of 1904 put out a tariff with a total duty on an average of \$116.25 on importation into Canada of \$116.25.

Then on June 15, 1906, the United States government reduced the rates on artificial silk from \$117.50 to \$115.00, and the new rate was \$115.00, which is \$12.50 less.

Mr. McNair: Yes, of course, on an average basis of 100 per cent, before the tariff was reduced the total Canadian duty would be an average of \$117.50. So that not only was the duty less at that time, but the American government reduced their duties after that, so that they were very much less. On a tariff basis which entered the United States from Canada, the Canadian rate of duty ranged from one to ten per cent when the tariff was reduced to the present rate.

Mr. McNair: Yes, so that it is now to protect the Canadian government not to have any

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reckless action in respect to the alteration in the trading relations with Japan, but that makes it quite clear that they did not.

During the course of the evidence it was suggested, and my friend Mr. Kellock suggests it in his brief, that there was some mysterious spirit at large in the United States that keeps Japanese goods out, although you cannot find it in the customs tariff, and no other body can tell you what it is. There was a man who gave evidence before the commission. I think his name was Donner, who had been a buyer for Sears Roebuck in Philadelphia or some other American city; at all events he had been a buyer for one of the large American firms, and he was asked, "Did you have any trouble in getting Japanese goods that you wanted by simply paying the duty that was payable under the customs tariff?" And he said, "No, we bought them and we sold them, but there may be other reasons that they did not come into a market." At any rate the Canadian government had reduced the tariff to an amount where it was still greater than the United States tariff when all this trouble arose, and let me say just in parenthesis there that Mr. Gordon was asked in his evidence if he had made any investigation before he closed his mill to find out what the customs tariffs were in the United States and what was happening over there, and he said that he had not, although he did claim that he had seen some Japanese goods that were quoted on



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he said that he had not, although he did claim that  
he had seen some Japanese goods that were protected

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in the United States, but he did not claim that they had been sold or that he had any knowledge of them being sold. I shall refer to that later.

5 Then we come to the action that was taken by the industry. They organized a deputation of very representative men. These men were not gentlemen whose importance can be underestimated in the industry. The deputation comprised leading executives in the important companies engaged in the manufacture of textiles  
10 in Canada. Their names are set out on page 15 of my brief. They secured an appointment with the Minister of Trade and Commerce, the Minister of Finance and the Minister of National Revenue, and  
15 appeared before them in the city of Ottawa. Now we do not have to go to the recollection of anyone for an account of what was put before the ministers. After the meeting, Mr. Hallam, who was there, and Mr. Marx, were instrumental in sending out a report to  
20 the industry of what had taken place. This report was dated January 17, 1936, so that it was immediately after the meeting sent out to the industry. Mr. Hallam said in his evidence that it was intended to be a truthful account of what took place, and one  
25 can make no suggestion as to why the organization should send out to the industry an account of anything but what was truthful with respect to what took place in Ottawa. That is much better, I submit, than what members of the deputation who were there  
30 say afterwards about what took place, for this is their own record of the meeting, and we cannot be



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the United States, but he did not claim that they  
had been sold or that he had any knowledge of them  
being sold. I shall refer to that later.

Then we came to the section that was taken by the  
industry. They organized a delegation of very  
active men. These men were not mentioned before.

Importance can be underestimated in the industry. The  
delegation comprised leading executives in the industry  
and companies engaged in the manufacture of goods

in Canada. Their names are set out on page 10 of  
my brief. They secured an appointment with the  
Minister of Trade and Commerce, the Minister of

Finance and the Minister of National Revenue.  
They appeared before him in the city of Ottawa. They  
did not have to go to the residence of anyone for

a meeting of that was not before the Minister.  
After the meeting, Mr. Wilson, who was there, and Mr.  
and Mrs. Wilson, were instrumental in securing a room at

the industry of what had been done. This report  
was dated January 17, 1966, so that it was im-  
mediately after the meeting sent out to the industry.

Mr. Wilson said in his evidence that it was intended  
to be a faithful account of what took place, and  
that no suggestion as to who was responsible

should be sent out to the industry as a result of any  
discussion that was faithful with respect to what took  
place in Ottawa. That is what I submit.

That was the substance of the evidence of Mr. Wilson.  
I submit that the report was a faithful account of what  
took place in Ottawa, and that it was intended to be

unfair to them if we take what they say as being truthful. At page 16 of my brief I deal with some of the matters that were mentioned in this report, exhibit No. 277.

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Page 13895 follows

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1880

ROBT. BRIDGES  
CHARTERED SURVEYOR  
BOSTON, MASS.  
1880

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"The report states that following this meeting

"one of the largest mills expressed the opinion that it would be impossible to maintain the present level of employment during the next three or four months, and severe curtailment would be necessary."

Now, that was a statement of fact that one would expect to be based on knowledge of facts at the time. They also stated that,

"1. All branches of the textile industry were concerned over the Japanese situation.

2. The whole trade of the country was upset, including retailers, wholesalers and manufacturers."

Well, we have had a lot of evidence, and there has been ample opportunity for those who were prepared to make that statement to the Ministers to have adduced the evidence to show that at that time "the whole trade of the country was upset, including retailers, wholesalers and manufacturers."

"3. Deliveries were being cancelled.

4. New orders were not being placed.

5. Production was being stopped.

6. R. G. Tolmie, Canadian Cottons Limited, explained that the Japanese goods had forced the shutting down of the Milltown mill which was making these goods, and produced cancellations of orders which had been received."

Now, Mr. Marx made representations and he sent this report out, so this must have been made to the Ministers,



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present level of employment during the next three  
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5. Production was being stopped.

It is stated that the Japanese goods had forced the  
shutting down of the Milltown mill which was making  
these goods, and produced cancellations of orders  
which had been received."

Now, Mr. Mack made representations and he said that  
this must have been made to the Minister

that "his customers were not placing their requirements, especially the staple industries such as the underwear manufacturers", and a quotation from the report,

"!-----the result of which was the necessity of shutting his mill down completely, as well as two other mills of which he was the greatest user of their production. This forced out of employment between 1000 and 1400 people".

Now, that was --

The COMMISSIONER: Mr. Marx said he had closed this down?

MR. McRUER: His report states that in these words, my lord --"!-----the result of which was the necessity of shutting his mill down completely, as well as two other mills of which he was the greatest user of their production."

The evidence is he had closed his mill for two days during December before this treaty became effective. I will refer to that specifically later on.

THE COMMISSIONER: What is the evidence about the Milltown Mill that Mr. Tolmie referred to?

MR. McRUER; I deal with that, too, later in my brief, my lord, that the Milltown mill was never closed.

"Mr. Gordon said,

'that the Japanese situation had resulted in an entire lack of orders for the mills at Sherbrooke and Valleyfield, and that it would be necessary to stop 600 looms at Sherbrooke and 500 at Valleyfield.' (These are all looms occupied in the manu-



that "his customers were not placing their orders especially the staple industries such as the iron and steel industry, and a quotation from the

"-----the result of which was the necessity of shutting his mill down completely, as well as other mills of which he was the greatest user of their production. This forced out of business between 1900 and 1905 people."

Now, that was --  
The Commissioner: Mr. Park said he had closed

my lord -- "-----the result of which was the necessity of shutting his mill down completely, as well as two other mills of which he was the greatest user of their production."

The evidence is he had closed his mill for two years I will refer to that specifically later on.

T A Commissioner: That is the evidence about the milltown mill that Mr. Toole referred to?

Mr. Toole: I deal with that, too, in my brief, my lord, that the milltown mill was never closed.

That the Japanese situation had resulted in a entire lack of orders for the mills at Sault Ste. Marie and Valcartier, and that it would be necessary to stop 600 looms at Sault Ste. Marie and 500 at Valcartier. (These are all looms occupied in the

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"facture of rayon)."

Now, that is what Mr. Marx sent out. Mr. Hallam stated it was intended to be a truthful account of what had taken place before the Ministers, and we have a record in writing made within three days afterwards of what was said to be said.

"The report concludes:

'It will be clearly understood that every effort should be made by all concerned to have action taken by the Government on fixed valuations.'

Now, that is a rather important thing. This is a report sent out and circularized to all the industry in which it contains the statement that,

"It will be clearly understood that every effort should be made by all concerned to have action taken by the Government on fixed valuations"

But it goes on,--

"--but a large amount of information is necessary"--

THE COMMISSIONER: Pardon me a moment. Does that refer to section 43?

MR. McRUER: 43, yes, my lord. That was the section under which they were asking that action be taken.

"-- but a large amount of information is necessary which will take time to collect"-- which also shows that/was said to be the attitude of the Ministers was, "well, we think you have got the wind up a bit unduly. We want some information. Bring it and show it to us." They say it will take time to collect.

"It will be necessary for every mill to bring costs of importations of Japanese goods to the



Now, that is what Mr. Mack sent out. Mr. William says  
it was intended to be a truthful account of what had  
taken place before the Ministers, and we have a record  
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in which it contains the statement that

"It will be clearly understood that every effort  
should be made by all concerned to have action  
by the Government on fixed valuations."  
But it goes on,--

THE CHIEF CLERK: I have no comment. I have just  
refer to section 40?

MR. MCKENNA: Yes, my lord. I am the chief  
under which they were asking that action be taken.  
"--- but a large amount of information is necessary  
which will take time to collect."-- which also  
shows that was said to be the attitude of the Minister  
and, "well, we think you have got the wind up a bit  
early. We want some information. I am not sure  
if we use." They say it will take time to collect.  
"It will be clearly understood that every effort  
should be made by all concerned to have action  
by the Government on fixed valuations."

"attention of the Primary Textiles Institute. We also point out that these three men were very favourably inclined to keeping mills in Canada in operation, but that we have to bring proof first".

5 Now, that was a statement of the position that apparently the Ministers had left the industry in when they left, that we are favourably inclined to keeping mills here operating, but you have to bring us proof that this is going to be injurious to you.

10 "During this period any aggravation of the situation by over-production should be avoided."

Now, Mr. Gordon stated that the attitude of the Minister of Finance was -- and I quote his own words --

15 "that buyers were sometimes prone 'to try and put the wind up manufacturers'", and that they were trying to frighten them, and to wait and see how it irons out.

Now, at the same time we can go to another written document to see what they were saying among themselves at that time, and we are not dependent on anyone's recollection for it. Mr. Taylor of Courtaulds was present at the meeting with the Ministers, and it was of sufficient importance, apparently, for him to telephone to London, England in connection with it, and he wrote a letter which is not one informing the English office about Japanese competition that they were experiencing in Canada at that time, but one seeking information from the English home office as to what Japanese competition they might likely expect to get. His letter reads:

25 30 "In a subsequent interview with the Minister of





"Finance, Minister of Trade & Commerce and Minister of Customs, etc., we were told it was possible to restore some dumping duty, if the circumstances warranted it"

5 Now, I think Mr. Gordon attempted to suggest in his evidence that the Minister of Finance was a bit arbitrary with him. That letter does not look like it.

10 "We were told it was possible to restore some dumping duty, if the circumstances warranted it, but we were told pretty definitely that they could hardly credit such low prices being possible in Japan, when the domestic cost was approximately 17¢ per yard, for a similar construction."

15 That is, that the Ministers wanted to be shown that for an article that cost 17¢ in Canada these prices they mentioned were possible, and, of course, that would involve showing <sup>the</sup> same sort of an article and that the cost was 17¢ per yard. Then, paragraph two on page 18:-

20 "There is no doubt we can substantiate this particular quotation very shortly."

Now, they had one quotation apparently at that time that they were not able to substantiate, according to 25 Mr. Taylor.

30 "There is no doubt we can substantiate this particular quotation very shortly, but as the volume on these cloths is a comparatively small part of the total consumption, we shall have to verify that the Japs can manufacture all types of all-rayon fabric, crepe de chine, French crepes, rough crepes, etc.,



Minister of Trade & Commerce and Minister of Customs, etc., we were told it was possible to restore some dumping duty, if the circumstances warranted it?

Now, I think Mr. Gordon attempted to suggest in his statement that the Minister of Customs was not like arbitrary with him. That latter does not look like it. We were told it was possible to restore some dumping duty, if the circumstances warranted it, we were told pretty definitely that they could hardly credit such low prices being possible in 1931 when the domestic cost was approximately 17¢ per yard, for a similar construction.

That is, that the Minister wanted to be shown for an article that cost 17¢ in Canada these prices would involve showing some sort of an article and the cost was 17¢ per yard. Then, paragraph two on the same subject would involve showing some sort of an article and the cost was 17¢ per yard.

There is no doubt we can substantiate this part of the statement very easily.

Now, they had one question apparently as to that that they were not able to substantiate, according to Mr. Taylor.

Particular question very easily, but as the cost of these cloths is a comparatively small part of the total cost, we shall not be really hurt by the fact that we cannot substantiate all of the figures.

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"on a proportionate price basis".

5 So that the point was that Mr. Taylor felt that we may be able to substantiate this quotation, but the consumption is very small as far as the whole Canadian market is concerned, and we are not going to be able to get anywhere on having a fixed valuation put on because of that small part of the consumption, and, after all, we have examined this thing for a year and we are pretty much back to the position that Mr. Taylor was in at the start, and that is that on the particular type it is a small part of the consumption of rayon fabrics in Canada, and that we have not been able to verify that other goods are being laid down here in such quantities as to be any destructive influence to Canadian industry. So he goes on to say:-

"If you have any information or quotations with samples, we should certainly appreciate your sending them forward without delay"

20 So that the position that Mr. Taylor was in was not that of one who had before him evidence of destruction of Canadian industry, or one who had any barometer that showed that trade was falling at such a rate that they were all going to be swamped by the storm, but he had a quotation that made him wonder, but he said 25 "that is on a type of goods that does not amount to much in Canada, anyway, and we want to find out and prove our case on the other goods before we can get anywhere." Well, I suggest when we come to deal with the extremely important matter of the closing of the mill at Sher-



...that the point was that Mr. Taylor said that we  
may be able to substantiate this proposition, but the  
consumption is very small as far as the whole Canadian  
market is concerned, and we are not going to be able  
to get anywhere on having a fixed valuation put on  
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they were all going to be swamped by the storm, but  
he had a proposition that made him wonder, but he said  
...that is a type of statement that we must be  
in Canada, we must be told and we must  
and we must be told before we can do anything  
well, I suggest that we come in here and say  
...the thing of the kind at the

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brooke that that is about the same evidence that Mr. Gordon had. He has not been able to show any evidence that he really had any greater information than Mr. Taylor, because when we go to the quotation that they had it was one from A. B. Fisher. I think it was on the 4th of January it had been sent out, and it was subsequently withdrawn, but when we consider why the Sherbrooke mill was closed I think we have to take into consideration the type of goods they were manufacturing there, the condition of the stock at Sherbrooke at the time, and the correspondence that took place leading up to the order to close the mill, and the manner in which the mill was closed.

Now, at page 19 of my brief I have referred to certain correspondence that had taken place between Mr. Kershaw, and Mr. Gordon and Mr. Daniels. Mr. Kershaw was the manager of the Sherbrooke branch, rayon division, of the Dominion Textile Company. On the 17th of January Mr. Gordon wrote:

"In view of unsettled conditions in the rayon field at the present time, we have decided against making a definite appointment of a new superintendent of the Rayon Division at Sherbrooke Branch. We wish you to assume the title of 'Acting Superintendent'-- and so on, and then he goes on:-

"You will be receiving instructions from Mr. Daniels to close down operations in the Rayon Division Friday night, January 17th, as this action is necessary in view of the threatened invasion of the





"Rayon market in Canada by Japanese Goods at the present time. We have made representations in Ottawa in the proper quarters but, until some action is taken by the Government to stabilize the situation, it is quite impossible for us to book any further orders or to continue production for stock purposes".

Now, that is what Mr. Gordon said to Mr. Kershaw when he gave the order. He said that it was on account of the threatened invasion of the rayon market in Canada. Now, we must regard Mr. Gordon as a very able and shrewd business man, and one who would not act on information that had not been fully investigated and authenticated. Now, he has not been able to show to this Commission, that I can recollect, any information that had been fully investigated and authenticated at that time that showed that there was a Japanese invasion of the Canadian market, or that one threatened, or to show that they were unable to book further orders, or to continue for stock purposes. Mr. Gordon attempted in his evidence to suggest inter-company booking of orders, from one company to the other, from Sherbrooke to Magog. It may be, but it would not be how I would read it, but, at any rate, the situation is that Mr. Daniels sent forth a letter with a notice signed by Mr. Gordon that --

"Further to our conversation of Monday regarding short time operations"-- now, this was on the 15th. Both these letters were on the 15th. The first one may have been the 14th. Yes, I guess that is right.

MR. BLAIR GORDON: You mean the following day, the day



"Byron market in Canada by business goods at the  
present time. We have made representations in  
Quebec in the proper quarters but, until some order  
is taken by the Government to establish the situation  
it is quite impossible for us to look any further  
into the matter. Now, that is what Mr. Gordon said to Mr. Kesteven  
when he gave the order. He said that it was on account  
of the threatened invasion of the rayon market in  
Quebec. Now, we must remember that the rayon market  
and shrewd business man, and one who would not act on  
information that had not been fully investigated and  
authenticated. Now, he has not been able to show to  
the Commission, that I am sure, the Commission  
has not been able to show that the Commission has  
of the Canadian market, or that one threatened, or to  
show that they were unable to look further orders, or  
to continue for stock purposes. Mr. Gordon attempted  
in his evidence to suggest inter-company dealings of  
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read it, but, at any rate, the situation is that Mr.  
Gordon that --  
to our conversation of Monday morning  
that the Commission has not, this was on the 15th  
and that the Commission were on the 15th. The first one may  
be that the Commission. Yes, I guess that is right.

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after the 14th. It is the 15th.

THE COMMISSIONER: The letter you have just read from Mr. Gordon to Mr. Kershaw should be dated January 15th; is that the point?

MR. McRUER: That is dated January 16th.

THE COMMISSIONER: There is no date given here.

MR. McRUER: It says "on the same date Mr. Gordon"-- that refers back to the date of Mr. Taylor's letter. You might just get that exhibit, Mr. Whiteley, so we are sure of the date. It is exhibit number three. The letter from Mr. Gordon to Mr. Kershaw is dated the 15th of January.

THE COMMISSIONER: Dated the 15th, you say?

MR. McRUER: Yes, my lord, exhibit three, and exhibit four from Mr. Daniels to the Dominion Textile Company is dated the 15th as well. Now, Mr. Daniels says in his letter --

"Further to our conversation of Monday regarding short time operations.

Since that date further complications have arisen which necessitate more drastic action. You will therefore post the following notice in several prominent places throughout the Rayon Mill:--

DOMINION TEXTILE COMPANY LIMITED

SHERBROOKE BRANCH - RAYON DIVISION

THIS MILL WILL CLOSE DOWN ON FRIDAY

JANUARY 17TH AND WILL REMAIN CLOSED UNDEFTINITELY".

Now, we may observe here that Monday was the 13th of January. This letter is written on the 15th.



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after the 15th. If it is the 15th.

THE COMMISSIONER: The letter you have just read

15th; is that the point?

MR. BRYDIE: That is dated January 1940.

THE COMMISSIONER: There is no date given here.

MR. BRYDIE: I say "on the same date Mr. Gordon"

that refers back to the date of Mr. Gordon's letter.

You might just get that exhibit, Mr. Christie, so we

are sure of the date. It is exhibit number three.

The letter from Mr. Gordon to Mr. Macdonald is dated the

15th of January.

THE COMMISSIONER: Dated the 15th, you say?

MR. BRYDIE: Yes, my lord, exhibit three, and exhibit

four from Mr. Macdonald to the Dominion Textile Company

is dated the 15th as well. Yes, Mr. Macdonald says in

his letter --

"Further to our conversation of Monday regarding

short time operations.

I also state that further negotiations have and

in which necessitate more drastic action. I am still

convinced that the following action is required

prominent places throughout the Bay of Fundy:

THIS WILL BE THE FIRST OF MANY

REMARKS MADE BY MR. BRYDIE IN HIS EVIDENCE

Now, we may observe here that Monday was the 15th

of January. This is the date of the letter.

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Monday was the 13th. The evidence of Mr. Kershaw was that he had had a conversation with Mr. Daniels on the 13th, that they had referred to further curtailment of production because the Magog Print Works had not sufficient machinery to handle the grey goods that were being produced at Sherbrooke, and that they would have to cut down further production at Sherbrooke, that there was no mention made of Japanese competition to him at that time, and that when he received this letter it was the first he had heard of Japanese competition interfering with their business. One would think if the business of the Dominion Textile Company was being threatened with this impending catastrophe it would have leaked through to Mr. Kershaw.

At any rate, it is suggested in my friend, Mr. Heward's brief, that the closing of the Sherbrooke mill was <sup>a</sup> matter of only a few days. It was a temporary matter from its inception. It was never intended to close the mill, it was just a temporary matter until they oriented themselves. I think that correctly summarizes it. Well, the notice that was posted to the employees was that the mill would remain closed indefinitely, and Mr. Gordon wrote to Hector MacKinnon, Commissioner of Tariffs, on the 16th of January, a rather important letter, at page 20.

"Since returning from Ottawa, I have reviewed our own rayon situation carefully, and, in view of our present stocks and the doubtful validity of present orders on our books, I can only conclude that it would be"-- well, there is a



Monday was the 13th. The evidence of Mr. Lashaw  
was that he had a conversation with Mr. Daniels  
on the 13th, that they had referred to further our-  
tailment of production because the Masag Print Works  
had not sufficient machinery to handle the grey goods  
that were being produced at Sherbrooke, and that  
they would have to cut down further production at  
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of Japanese competition interfering with their business.  
One would think if the business of the Dominion Text  
Company was being threatened with this impending  
catastrophe it would have leaked through to Mr. Lashaw.  
At any rate, it is suggested in my friend, Mr.  
Howard's brief, that the closing of the Sherbrooke  
mill was a matter of only a few days. It was a tempo-  
rary matter from its inception. It was never intended  
to close the mill, it was just a temporary matter  
until they could be re-evaluated. I have said before  
summarizes it. Well, the notice that was posted  
to the employees was that the mill would remain  
closed indefinitely, and Mr. Gordon wrote to Inspector  
MacKinnon, Commissioner of Customs, on the 14th of  
January, a rather important letter, at page 20.  
" Since returning from Ottawa, I have reviewed  
our own rayon situation carefully, and, in view  
of our present stocks and the doubtful validity  
of present orders on our books, I can only con-  
clude that it would be well, under the

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statement there in regard to the doubtful validity of the orders on the books. He goes on:

"--I can only conclude that it would be sheer folly to continue producing more rayon goods in the Rayon Division of our Sherbrooke Branch".

Sheer folly to continue producing more rayon goods in the Rayon Division of our Sherbrooke Branch.

"I have, therefore, made arrangements for that mill to cease operations tomorrow night; and it will have to remain closed until we can have some reasonable grounds for assuming that goods produced can eventually be sold at a price level in line with cost of production."

Now, when we come to consider, as I am going to in a moment, the type of goods they were producing in the Rayon Division of the Sherbrooke Branch, and the type of goods that were being quoted on by Fisher, and that is about the only quotation -- the only quotation that we have got in Canada was a letter from Fisher to Anderson, and probably sent out to some others, but it is rather important in reading this letter to the Commissioner of Tariffs to observe that they are closing the mill, they are ceasing operations to-morrow night, "and will have to remain closed until we can have some reasonable grounds for assuming that goods produced can eventually be sold at a price level in line with cost of production". I am going to point out, while these representations were before the Minister, and while they were putting before them their different angles in the industry, the purchases



statement there is regard to the total weight  
of the orders on the books. He goes on:  
"I am only concerned that it would be open  
fully to continue producing more raw on goods in  
the Region Division of our Sharnbrook Branch."  
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the Region Division of our Sharnbrook Branch,  
"I have, therefore, made arrangements for the  
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line with cost of production." I am going to point  
out, while these quotations are being read,  
that, while they were putting before them

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of rayon yarns that the industry were making at the same time. He goes on:-

5 "I am hoping that, in spite of the rather indefinite promises of immediate action made by Mr. Dunning"-- so Mr. Dunning had apparently made some promises, indefinite, if you will, but you could not expect, I don't think, because they brought a quotation from A. B. Fisher & Company, and said 10 "here we are, we want the fixed valuation restored at once", I don't see how a reasonable man could expect the Minister of Finance to accede to that. It is difficult to see, in view of all the evidence that we have had here, how they could have expected it, 15 had that all been known, but he says he is hopeful in spite of these indefinite promises that--

20 "--something will be done to stabilize the whole situation so far as landed values on all types of textiles from Japan are concerned. I think the idea of waiting for the situation to develop is tantamount to watching a fire make headway before attempting to bring it under control, and I am afraid the longer the Government holds off the more 25 difficult it will be in the end to make the changes which are absolutely necessary if our whole industry is to be kept in the picture".

30 Now, this is a statement that one who is in the position of Mr. MacKinnon must take to understand that Mr. Gordon is saying to Mr. MacKinnon "if you don't take action, we have information that shows us we are going to be wiped out of the picture". They are just



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of rayon yarns that the industry were making at the same time. He goes on:-

"I am hoping that, in spite of the rather indefinite promises of immediate action made by Mr. Dunning"-- so Mr. Dunning had apparently made some promises, indefinite, if you will, but you could not expect, I don't think, because they promised a quotation from A. B. Fisher & Company, and said "here we are, we want the fixed valuation restored at once", I don't see how a reasonable man could expect the Minister of Finance to accede to that. It is difficult to see, in view of all the evidence that we have had here, how they could have expected it, had that all been known, but he says he is hopeful in spite of these indefinite promises that--

"--something will be done to stabilize the whole situation so far as landed values on all types of textiles from Japan are concerned. I think the idea of waiting for the situation to develop is tantamount to watching a fire make headway by attempting to bring it under control, and I am of the opinion the Government holds off the more difficult it will be in the end to make the change which are absolutely necessary if our whole industry is to be kept in the picture."

Now, this is a statement that one who is in the position of Mr. Dunning and who is a member of the House is making in the House. It is not a statement that is to be kept in the picture. But we have

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going to take a brush and brush them off the board. Now, we are dealing with statements made to a Government, and I am going to have something to say later as to how I think an industry that enjoys the privilege of protection ought to deal with governments. There seems to have been indicated in this inquiry "that we can say anything we like to the government because they have got the means to find out if it isn't true". Some witnesses did suggest that. Well, I do not believe that is just a becoming way for those engaged in an industry that receives protection to deal with the Government.

Mr. Gordon said to the Montreal Gazette, which was a statement undoubtedly for publication because it was in reply to the Gazette telegram asking if he had any comment to make --

"Report correct. Mill employs about five hundred of both sexes. Hope to re-open when we can see possibility of manufacturing goods which can be sold".

Hope to re-open when we can see possibility -- that is, he is telling the public now that we can see no possibility of manufacturing goods that can be sold. Well, these may be statements that were made hastily. Probably Mr. Gordon did not want them to be taken at their full face value. They may have been made rather with the hope that they would create some propaganda that would enure to the benefit of the industry, but whether that be the case or not we have to



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industry that receives protection to deal with the  
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Mr. Gordon said to the Montreal Gazette, which  
it was in reply to the Gazette telegraph saying it  
had any comment to make --

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their full face value. They may have been made  
rather with the hope that they would create some  
propaganda that would come to the benefit of the in-  
dustry, but whether that be the case or not we have

draw our own conclusion from the fact they were made in the way they were made.

Then, we come to the interview between Mr. Howard and Mr. Dodd, and, again, Mr. Howard was a member of parliament and one of those who were charged with the responsibility of voting in Parliament on the subject matter of granting tariff protection to an industry. He was interested in his constituents who were out of work as a result of this action. He went to Mr. Dodd and Mr. Dodd stated--

"that there were goods coming in that were responsible for serious competition, and they did not dare go on manufacturing in Sherbrooke in those competitive lines".

Well, in the first place the lines were not competitive in Sherbrooke with any goods that had been quoted on. There is no evidence that goods were coming in, no evidence that goods were sold at that time, and the quantities that were sold we will deal with.

-- The Commission adjourned for a short recess.

-- On resuming.

ARGUMENT BY MR. McRUER(Continued):

The evidence shows that Mr. Howard then had an interview with members of the Cabinet after having seen Mr. Dodd, and on the 24th of January, 1936, the Minister of Finance made a report to a committee of the Privy Council, recommending that a Royal Commission be appointed to investigate not only the circumstances surrounding the closing of the Sherbrooke Branch of the



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new and the same time from the fact that they were  
in the city they were made.

That, in some of the instances between Mr.  
James and Mr. Ross, and, again, Mr. Howard and a  
member of parliament and one of those who were charged  
after the removal with the fact in parliament on the  
subject matter of charging that he was to be  
indicted. He was indicted in his own name and  
was one of the most of this at the time. He was  
on the same and Mr. Ross was not.

That there were some cases in that time when  
this the whole competition, and that the  
fact he was mentioned in the whole in those  
competitive lines.

well, in the first place the fact was not  
anywhere in connection with the fact that he  
acted on. There is no evidence that Ross was  
acting on, the evidence that Ross was not at that  
time and the position that was not at that  
time.

The Commission enquired for a number of years  
on the subject.

AMOUNT TO THE GOVERNMENT:

The evidence shows that Mr. Ross was not  
an interview with members of the public after that  
time Mr. Ross, and on the fact of the fact, that  
Minister of Finance was a report for a number of  
the City Council, recommending that a Royal Commission  
be appointed to investigate and report on the situation  
concerning the affairs of the Government.

Dominion Textile Company, but also other matters in connection with the textile industry, and on that same date the Dominion Textile Company issued orders to Mr. Kershaw to re-open the mill as of January 29th.

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Now, in determining what was the purpose of closing the mill at Sherbrooke it is not unfair if we analyze the statements that were being made by the officers of the Dominion Textile Company at that time, and the statements that were being made by members of the industry to the Government at that time, because there are two ways of pressing a case. One is that we have proof that will satisfy you that there is going to be a great national catastrophe, and the other is that we say there is going to be a great national catastrophe, and if you don't do something then we are going to do something. Now, the Ministers invited proof. Unqualified statements were made as to what was taking place in Canada, but there didn't seem to be the disposition to bring forth the proof.

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Now, I have suggested in my brief, and I think quite fairly suggested, that there is something curious that the Sherbrooke mill was the one that was selected for closing, because that mill had been producing at a heavier rate than the Magog plant had been consuming. It was necessary to curtail production in the Sherbrooke branch quite irrespective of Japanese competition altogether, and the table on page 24 of my brief shows that the yardage on hand was almost twice the amount on hand on January 5th, 1936, as compared with January 5th, 1935. Well, there was a general state of over-



Domestic Textile Company, but also other matters in  
connection with the textile industry, and on that  
same date the Dominion Textile Company issued orders  
to Mr. Barrow to re-open the mill as of January 29th.  
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closing the mill at Sherbrooke it is not unfair if we  
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the industry to the Government at that time, because  
there are two ways of presenting a case. One is that  
we have proof that will satisfy you that there is  
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is that we are going to have a great national  
catastrophe, and if you don't do something then we are  
going to do something. Now, the Ministers invited  
proof. Unsubstantiated statements were made as to what  
was taking place in Canada, but there didn't seem to  
be the disposition to bring forth the proof.  
Now, I have suggested in my brief, and I think  
that the Sherbrooke mill was the one that was selected  
for closing, because that mill had been producing at  
a heavier rate than the Massé plant had been consuming.  
It was necessary to curtail production in the Sher-  
brooke plant, and the table on page 24 of my brief shows  
that the output on hand was almost twice the amount  
of the output in the Massé plant, and was compared with the  
output of the Massé plant.

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production in the industry as a whole at that time,  
and my suggestion is that if the employees were  
laid off it would be an inexpensive way of curtailing  
production, and yet, at the same time giving what  
5 would probably be a salutary lesson to the Government.

Now, on page 25 I refer to the letters that  
were sent and the conversations that took place, in  
chronological order, and it shows that up until January  
15th there had been no suggestion of closing the  
10 Sherbrooke mill for any other purpose -- or closing  
the Sherbrooke mill -- but there was a suggestion  
to cut down production on account of the fact that the  
machinery at the Magog plant was not sufficient to take  
all the supply of grey goods produced at the Sher-  
15 brooke plant. At pages 26, 27 and 28 I have made  
reference to several specific matters that I suggest  
may be considered in determining what was the motive  
in closing the Sherbrooke plant.

Now, just let us analyze the position from this  
20 point of view, that is, what Mr. Gordon had before  
him, what real threat to the Canadian Market, and  
these people are used to having some competition.  
Surely they are not China dolls that are going to be  
completely destroyed by the impact of some feeble  
25 competition of some sort. Now, all that Mr. Gordon  
has been able to show that he had before him when he  
gave the order on January 15th to close that plant,  
the day after they had been to Ottawa, was that there  
30 had been some quotations gone out from A. B. Fisher  
& Company on 27 inch taffeta. Now, he was asked to



production in the industry as a whole at that time,  
and my suggestion is that if the employees were  
laid off it would be an inexpensive way of curtailing  
production, and yet, at the same time giving what  
would probably be a salutary lesson to the Government.  
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were sent and the conversations that took place, in  
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15th there had been no suggestion of closing the  
Shenbrook mill for any other purpose -- or closing  
the Shenbrook mill -- but there was a suggestion  
to cut down production on account of the fact that the  
machinery at the Magog plant was not sufficient to take  
all the supply of grey goods produced at the Shen-  
brook plant. At pages 26, 27 and 28 I have made  
reference to several specific matters that I suggested  
may be considered in determining what was the motive  
in closing the Shenbrook plant.  
Now, let us analyze the position from this  
point of view, that is, what Mr. Gordon had before  
him, and what was the position at that time, and  
these people are used to having some competition.  
Specially they are not China dolls that are going to be  
crushed by competition. Now, all that Mr. Gordon  
has been able to show that he had before him when he  
made the suggestion of closing the Shenbrook mill, was  
the fact that the machinery at the Magog plant was not  
sufficient to take all the supply of grey goods produced  
at the Shenbrook plant. Now, let us analyze the position  
from this point of view, that is, what Mr. Gordon had  
before him, and what was the position at that time, and  
these people are used to having some competition.

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produce all the evidence, all that he had, knew about it, on what he could determine it necessary to throw people out of work, on charity that he could not sell goods, that would justify telling the Commissioner of Tariffs that we cannot manufacture goods that can be sold, in so many words. The words that he used to Mr. MacKinnon were:

"I can only conclude that it would be sheer folly to continue producing more rayon goods in the Rayon Division of our Sherbrooke Branch."

Now, to say publicly:

"We hope to re-open when we can see possibility of manufacturing goods that can be sold!"---

Well, we have just got to face the facts as they are in trying to arrive at a conclusion and the facts are that Fisher had sent out a quotation. Mr. Gordon was unable to give - I will refer to his evidence specifically in a moment - unable to bring any evidence of anyone ever having bought these goods, but what type of goods were they in the first place on which the quotation was sent out? It was 27" rayon taffeta, 9 yards to the pound. We have seen the goods; they are here. They are very thin. The styles that were on the looms at Sherbrooke 46 $\frac{1}{2}$ " wide rayon that actually finished at 37 $\frac{1}{2}$ ", a rayon taffeta 37 $\frac{1}{2}$ " wide and a rayon



produce all the evidence, all that he had,

know about it, on what he could determine it

necessary to show people out of work, or charity,

that he could not sell goods, that would justify

telling the Commissioner of Taxation that he cannot

manufacture goods that can be sold, in so many words,

The words that he used to Mr. Macdonald were:

"I can only conclude that it would be

absolutely to continue producing more rayon

goods in the Rayon Division of our enterprise

Branch."

Now, to say briefly:

"We hope to re-open when we can see

possibility of manufacturing goods that

can be sold."

Well, we have just got to face the facts as they are

in trying to arrive at a conclusion and the facts are

that Fisher had sent out a quotation. Mr. Gordon

was unable to give - I will refer to his evidence

specifically in a moment - unable to bring any evidence

if anyone ever having bought these goods, but what

type of goods were they in the first place on which

the quotation was sent out? It was 27th rayon

quotation, I think in the month of May

from the Rayon Division, and that was the only quotation

that was sent out at that time, and that was the only quotation

that was sent out at that time, and that was the only quotation

that was sent out at that time, and that was the only quotation

crepe 37 $\frac{3}{4}$ " wide. These three finished at 4 yards to the pound, and entirely different type of goods. One does not need to be an expert to know that a 9-yard to the pound article is not one that is in competition with 4 yards to the pound. I am just dealing with what one who on reasonable evidence gets himself into a condition of mind that he can say "It is no use of us going on with this mill any longer because we cannot manufacture goods that can be sold on account of these goods coming into the country." Those are the facts that he had at that time. We are going back now to the time that Mr. Gordon gave the order on the 15th of January, the day after he had visited Ottawa, but strange to say when we come to this investigation Mr. Gordon says "Oh no, it is not the Sherbrooke goods that received competition from these Japanese Rayon Taffetas, but the ones that are manufactured at Montreal Cottons" but it is the Sherbrooke plant he ordered closed. Now, at page 29 I have quoted from the evidence of Mr. Gordon given on the 7th of April, 1936, when he had had three months in which to learn a great deal that he did not know on the 15th of January, but see what he says here, my lord:

"Q. As far as you are concerned today you have not yet seen a sample of the Japanese goods that competes with your Sherbrooke manufacture?



orange 3 1/2" wide. These three finished at 4 yards  
to the pound, and entirely different type of goods.  
One does not need to be an expert to know that a  
3-yard to the pound article is not one that is in  
demand. It is a fact that one who is dealing with what one who on reasonable evidence  
puts himself into a condition of mind that he can say  
"It is no use of us going on with this will say  
longer because we cannot manufacture goods that can  
be sold on account of these goods coming into the  
country." These are the facts that he had at  
that time. He was going back now to the time  
that Mr. Gordon gave the order on the 10th of January  
the day after he had visited Ottawa, but strange to  
say when we come to this investigation Mr. Gordon  
says "Oh no, it is not the Sharbooke goods that  
received competition from these Japanese goods. It is  
but the ones that are manufactured at Montreal. Custom  
but it is the Sharbooke giant he ordered cleaned.  
Now, at page 29 I have quoted from the evidence  
of Mr. Gordon given on the 7th of April, 1935,  
when he had had three minutes in which to learn a  
great deal that he did not know on the 10th of  
January, but see what he says now, my lord:  
"I am sure as you are concerned today  
you will not see a sample of the Japanese  
goods that were sent to the Customs."

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"A. We have seen many samples of Japanese goods as sold to different markets, and so far as I am concerned I have reason to be quite confident or certain, if you like, that Japan is fully capable of making the exact goods that were quoted on.

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BY THE COMMISSIONER: Q. Of making what?

A. The exact goods that were quoted on, that Japan quoted on."

Now, those are quotations not in Canadian markets he is referring to.

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"BY MR. McRUER: Q. If you would just answer my question then we will go on with any explanation you wish to make. I say up to to-day you have not seen any Japanese goods in the Canadian market that is of the same texture, the same specifications, or is the same article as manufactured at Sherbrooke?

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A. I have not seen that myself. There may be such in the country; I don't know.

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Q. I would think with the interest you have in the matter if they were to be had you would have seen them by now.

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A. I don't know that they would have been available to me. I noticed in your list of importations there are certain crepes that may have been samples. I have not seen those samples. There is 250 pounds, was it? I would be very glad to see them."



"I have seen many samples of Japanese goods as sold to different markets, and so far as I am concerned I have reason to be quite confident or certain, if you like, that Japan is fully capable of making the exact goods that were quoted on."

A. The exact goods that were quoted on, that Japan quoted on."

Now, these are quotations not in Japanese markets, he is referring to.

"MY MR. BRIDGES: If you would just answer my question then we will go on with any explanation you wish to make. I say up to to-day you have not seen any Japanese goods in the Old City market that is of the same texture, the same specifications, or is the same article as manufactured at Shantung?"

A. I have not seen that quality. There may be such in the country; I don't know. I would think with the interest you have in the matter if they were to be had you would have seen them by now.

A. I don't know that they would have been available to me. I noticed in your list of commodities there are certain orders that may have not been seen those commodities.

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Now, this is in April, after having gone through three months, and still Mr. Gordon isn't able to say that the output of the Sherbrooke plant is receiving competition from Japanese fabrics. There is no evidence of it. Then, it goes on:

" ". All I am talking about, Mr. Gordon, is that you have not seen them?

A. No.

Q. You know of nobody in the Dominion Textile that has, up to to-day?

A. Yes, I think that is a proper statement. I don't know at the moment---

Q. Well, --

A. Let me answer; I don't know at the moment whether any of our salesmen in any of our sales offices have actually seen the types of goods as manufactured at Sherbrooke represented by Japanese samples or Japanese goods.

Q. What evidence have you got right now of any flooding of the Canadian market with any goods, that is, rayon goods similar to the ones manufactured at Sherbrooke?

A. I am not quite clear when you say 'flooding', in what sense --

Q. I mean flooding it in the sense that we would say it is going to be disastrous to the Sherbrooke mill?

A. I think we all know that up to the



Now, this is in April, after having gone through

three months, and still Mr. Gordon isn't seen to

say that the output of the telephone plant is really

... there is no civil

of it. Then, it goes on:

"... All I am talking about, Mr. Gordon,

is that you have not seen them?

A. No.

A. You know of nobody in the Dominion

Textile that has, up to 1934?

A. Yes, I think that is a proper state-

ment. I don't know of the women---

A. Yes.

A. Let me answer; I don't know of the

moment whether any of our salesmen in any of

our sales offices have actually seen the types

of shoes as manufactured at telephone plant---

ed by Japanese samples of Japanese shoes.

... that evidence have you got right now

of any flooding of the Canadian market with any

... that is, that kind of thing?

... I am not sure.

I am not sure.

... I am not sure.

... I am not sure.

... I am not sure.

... I am not sure.

... I am not sure.

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present time that the imports of Japanese goods have not been very large because there has not been time for them to become so."

Well, I can only say that there has not been shown to be any menace of Japanese competition before this Commission. I am dealing at the moment with the motive in closing that mill at Sherbrooke, why it was closed. Was the evidence such as would justify Mr. Gordon in closing the mill and putting employees on relief, publishing a notice that it is closed indefinitely and publishing the notice that he gave to the Montreal Gazette in reply to their telegram. The fact is that after three months he was not able to show there was any competition with the goods at Sherbrooke. Now, it does not make any difference what competition there was with other goods at the moment. He picked on Sherbrooke to close it, and I think, my lord, that it shows that the reasonable conclusion is that the Japanese competition did not exist at the time the mill was closed, that there was no reasonable evidence that there was going to be anything of the disastrous character that man who is acting shrewdly and fairly and in good judgment would order a course of action that deprived the employees of their livelihood.

Now, we might just look for a moment at an exhibit that casts some more light on the matter because it is relevant to what I have to say in respect to some of the other companies that took very much the same



present time that the imports of Japanese  
goods have not been very large because there has  
been time for them to become so.  
Well, I can only say that there has not been such  
in closing that all at Sherbrooke, why it was closed.  
was the evidence such as would justify Mr. Gordon in  
closing the mill and putting employees on relief,  
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Gazette in reply to their telegram. The fact is that  
after three months he was not able to show there was  
any competition with the goods at Sherbrooke. Now,  
it does not make any difference what competition there  
was with other goods at the moment. He picked  
on Sherbrooke to close, and I think, my lord, that  
Japanese competition did not exist at the time the  
character that man who is acting shrewdly and fairly  
and in good judgment would order a course of action  
that deprived the employees of their livelihood.  
Now, we might just look for a moment at an exhibit  
that would show more light on the matter because it

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course of action although they did not close mills, but they threatened to do so. Now, during the month of January ---

MR. HEWARD: Exhibit number?

5 MR. McRUER: Exhibit 732. Just at the precise time that Mr. Gordon was writing to the Commissioner of Tariffs in the tone that he was, that he was ordering the mill closed, the Dominion Textile Company purchased and took delivery from Courtaulds of 81,562 pounds of  
10 yarn as against 64,050 for the month of January, 1935.

Well, it is a rather curious thing that at the same moment that you are crying disaster and wolf! wolf! that you are storing up yarn for further manufacture  
15 in the very mill. I am not dealing with Montreal Cottons Mill. I might deal with it right now.

In Montreal Cottons, in the very mill that manufactured the articles that are said during this inquiry to be  
20 subject to Japanese competition ---

THE COMMISSIONER: That is in Valleyfield?

MR. McRUER: Yes. The purchases of yarn for the month of January, 1936, were 80,792 pounds as against  
25 57,308 in the month of January, 1935, and in the month of February, 1936, Montreal Cottons bought 72,038 pounds as against 36,000 in the previous year. In the month of March they bought 94,051 pounds as against 32,000 pounds in the month of March of the previous  
30 year, so that the whole time we were going through these months of January, February and March when this



course of action although they did not close mills, but  
January ---  
Mr. [unclear]: Exhibit 788. That at the precise time  
that Mr. Gordon was writing to the Commissioner of  
tariffs in the time that he was, that he was ordering  
the mill closed, the Dominion Textile Company purchased  
and took delivery from Continental of 81,000 pounds of  
textile material, and for the month of January, 1935,  
well, it is a rather curious thing that at the same  
moment that you are crying disaster and well! well!  
that you are holding up your hand for further assistance  
in the very mill. I am not dealing with you now.  
[unclear]  
in Montreal, Quebec, in the very mill that manufactures  
the textiles that are sold during this industry to be  
subject to Japanese competition ---  
THE COMMISSIONER: That is in Exhibit 788  
MR. MONTAGN: Yes. The purchases of yarn for the  
month of January, 1936, were 80,700 pounds as against  
87,300 in the month of January, 1935, and in the month  
of February, 1936, Montreal Cottons bought 7,000 pounds  
as against 86,000 in the previous year. In the  
month of March they bought 94,581 pounds as against  
88,000 pounds in the month of March of the previous  
year, so that the whole time we have been through this  
month of January, February and March we have been

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Commission was being appealed to to make an interim report because of the catastrophe that was going to take place in the Canadian industry if immediate action was not taken to exclude these Japanese goods that were being poured in here they were doubling up almost on the purchases of yarn in the very mill that manufactured the fabric that was said to be in competition with the Japanese fabric. In the month of February, the Dominion Textile Company apparently bought no yarn for the Sherbrooke branch? why, I don't know.

THE COMMISSIONER: In what month, did you say?

MR. McRUER: In the month of February.

Dominion Textiles all the way through eased up on the purchases of yarn over the last year until they got down to July and August. I don't know what the explanation is but it is not the same situation in respect to Canadian Cottons and Montreal Cottons which manufactured a low-priced fabric that competed with the Japanese fabric. Now, Canadian Cottons - and I am going to refer to what they said before us, but we might just bear in mind these figures---

THE COMMISSIONER: Just a minute; Canadian Cottons is not related to Dominion Textiles.

MR. McRUER: No, I am going to refer to them as another company that were making representations to the Government at that time in a moment, but for the first six months of the year 1936 Montreal Cottons



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report because of the catastrophe that was going to  
take place in the Canadian industry if immediate  
action was not taken to exclude these Japanese goods  
that were being poured in here they were doubling up  
almost on the purchases of yarn in the very mill that  
manufactured the fabric that was said to be in  
connection with the Japanese fabric. In the month  
of February, the Dominion Textile Company announced  
that no yarn for the Brookdale factory, I don't

THE COMMISSIONER: In what month, did you say?  
MR. BRIDIE: In the month of February.  
Dominion Textiles all the way through ended up on  
the purchases of yarn over the last year until they  
got down to July and August. I don't know what  
the explanation is but it is not the same situation  
in respect to American cottons and men's and boys' goods  
which manufactured a low-priced fabric that competed  
with the Japanese fabric.  
and I am going to refer to what they said before and  
but we have just been in kind these figures--

THE COMMISSIONER: Just a minute; connected to what  
is now related to Dominion Textiles.  
MR. BRIDIE: No, I am going to refer to what we  
to the Government at that time in a momentary way for  
the first six months of the year 1936 when they

purchased 611,218 pounds of yarn - no, that is the first seven months. That takes us down to the month of the strike at Cornwall. I have the figures for September but they had a strike at Cornwall and it was explained by Courtaulds they were not making their deliveries for some time up to the quantities that were ordered. For 1936 there was 611,218 pounds and in 1935 for the same months 469,776 pounds. Canadian Cottons, which had the Milltown mill that they had threatened to close and had said they had closed, for those six months Canadian Cottons purchased 40,212 pounds - 402,012 as against 373,531 pounds in the same period in the previous years. So there are the facts in respect to the Dominion Textile Company at the time they were closing the mill, that they were increasing their purchases of yarn over the previous year. They had a peculiar and very heavy type of fabric that has not been in competition with Japanese fabrics, as far as we have been able to learn, even to this day, and the actual facts showed a quotation from A.B. Fisher and nothing more.

Well, on the one hand if they were not receiving competition from Japanese fabrics, if there was not a situation that was reasonably apparent that the industry was imperilled, then what was the motive for closing the mill the day after they had been asked to bring proof to Ottawa?

Now, in respect to the Associated Textiles I deal



...all, his bonds of form - no, that is the

First seven months. That takes us down to the

for September but they had a strike at Cornwall and

that were ordered. For 1986 there was 611,218

with the representations they made to the Government at page 32 in respect to this matter.

THE COMMISSIONER: Before you go any further, they did not close any mill?

5 MR. McRUER: They said they had closed their mill.

THE COMMISSIONER: They had closed in December.

MR. McRUER: They had closed for two days in December, but the way it was put in the Report rather indicated they had told the Ministers ---

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THE COMMISSIONER: I asked you that question now because the Ordiner-in-Council asks me to enquire not only into the closing of the Sherbrooke Mill but into any other closings that may have occurred. There are not any others?

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MR. McRUER: No. They had stated - the report stated sent out by Mr. Marx himself had stated that Japanese competition had necessitated the closing of their mill and two other factories they had dependent which I take it were that Chemical company and something else they operated down there in connection with it. If you will get me the evidence at pages 4410 and 4408 we have the exact statement as to when they did close.

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MR. KELLOCK: It commences at 4409, line 18.

MR. McRUER: Now, the quotation from Mr. Marx's report at page 23 of my Brief is this---

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THE COMMISSIONER: 23?

MR. McRUER: 23 of my Brief, I am just referring



with the representations they made to the Government  
at Lake Umbagog in respect to this matter.

THE GOVERNMENT: Before you go any further, they

did not close any mill?

MR. WOOD: They said they had closed their mill.

THE GOVERNMENT: They had closed in December.

MR. WOOD: They had closed for two days in December.

but this was put in the report rather indicated

they had told the Ministers ---

THE GOVERNMENT: I asked you that question now

because the Ordinance-in-Council says as to enquire not

only into the closing of the Westbrook Mill but into

any other closings that may have occurred. There

are not any others?

MR. WOOD: No. They had stated - the report

states sent out by Mr. Mackinnon had stated that

Japanese competition had necessitated the closing of

their mill and two other factories they had dependent

on the mill for their power.

It is not a question of power but of competition.

It is. If you will get me the evidence of power

and 4408 as have the exact statement as to when

they did it.

THE GOVERNMENT: Yes, the statement of 4408, the 1st

of January, 1908, the statement of 4408, the 1st

of January, 1908, the statement of 4408, the 1st

of January, 1908, the statement of 4408, the 1st

of January, 1908, the statement of 4408, the 1st

back for the moment:

"Mr. Marx, of Associated Textiles of Canada Limited, pointed out that as a result of the uncertainty of the Japanese Textile situation, it was necessary to shut down his mill completely, as well as two other mills of which he was the greatest user of their production. This forced out of employment between 1000 and 1400 people."

THE COMMISSIONER: Pardon me, where did he point that out? That is his own report of what he had pointed out to the Ministers?

MR. McRUER: Yes, my lord; so that is apparently the statement, and it is what he was saying to the rest of the industry that this is what I have told the Ministers, and I suppose they would take it as truthful. Now, at page 4410 he was asked about the closing of his mill.

MR. KELLOCK: It starts on the preceding page, line 18.

MR. McRUER: All right, line 18.

"Have you suffered from external competition at all? A. External competition?

Q. Yes. A. Up until the present moment only by the fear and possibility"--

Well, we will just get the date that Mr. Marx was afraid.

MR. KELLOCK: It looks like the 15th of May.

MR. McRUER: I think it was in the month of May, at any rate. It was quite pleasant weather when we



DEBATE

back for the moment:

"Mr. Mack, of Associated Textiles of

Canada Limited, pointed out that as a result of the

uncertainty of the Japanese textile situation,

it was necessary to shut down his mill completely,

as well as two other mills of which he was the

greatest user of their production. This forced

out of employment between 1000 and 1400 people."

THE COMMISSIONER: Pardon me, where did he point

out only? That is his own report of what he had

pointed out to the Minister?

MR. MCKENNA: Yes, my Lord; so that is apparently

the statement, and it is what he was saying to the rest

of the industry that this is what I have told the

Ministers, and I suppose they would take it as truthful

now, at page 440 he was asked about the closing of

his mill.

MR. KILLICK: It starts on the preceding page, line

18.

and continues on the next page, line 10.

"Have you suffered from external competition

at all? A. External competition?

Q. Yes. A. Up until the present moment

only by the fear and possibility--"

and, it will be seen that the fear and possibility

is the only thing that has been mentioned.

MR. MCKENNA: I think it was in the middle of the

of the year, it was during the year 1931.

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were at Louiseville.

THE COMMISSIONER: You are talking about the day he gave his evidence?

5 MR. McRUER: Yes; he is talking in the present tense there.

THE COMMISSIONER: Yes, we were at Louiseville on the 15th of May. That is not the day he gave his evidence. He gave his evidence on the 14th of May.

10 MR. McRUER: Very well; at any rate, he says:

"A. Up until the present moment only by the fear and possibility that there may be goods coming into the country. As for actual proof of shipments of goods which have come in I know of none, but it has retarded business on our part in the months of January and February.

Q. I suppose you are referring to Japanese goods? A. Japanese and others, mostly Japanese.

20 Q. It is the fear that they will come in? A. That is right.

Q. I suppose likely a great deal of the talk that has gone on about Japanese competition would make purchasers think there were possibilities they were going to be able to buy Japanese goods at lower prices than yours? A. Yes, and it retarded the purchasing."

25 Mr. Marx states in his evidence it was during the months of January and February it retarded purchasing. I shall have occasion to refer to his deliveries

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1211

were at Louisville.

THE COMMISSIONER: You are talking about the day

the day of the

MR. MONROE: Yes; he is talking in the present tense

there.

THE COMMISSIONER: Yes, we were at Louisville on

the 15th of May. That is not the day he gave his

evidence. He gave his evidence on the 15th of May.

MR. MONROE: Very well; at any rate, he says:

"A. Up until the present moment only by the

fact and possibility that there may be goods

coming into the country, as for actual proof

of shipments of goods which have come in I know of

none, but it has retarded business on our part in the

months of January and February.

Q. I suppose you are referring to Japanese

goods? A. Japanese and others, mostly Japanese.

Q. It is the fact that they will come in?

A. That is right.

Q. I suppose likely a great deal of the talk

that has gone on about Japanese competition would

make purchasers think there were possibilities they

were going to be able to buy Japanese goods at lower

prices than yours? A. Yes, and it retarded the

business in his evidence it was during the

months of January and February it retarded purchasing.

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during those months in a moment.

"Is it not a fact that you have found evidence  
of that, that people have held back purchasing  
orders hoping to buy Japanese goods which they  
were not able to buy? A. Correct.

Q. And I suppose a great deal of this talk  
that went into the newspapers about the closing  
of a mill down in Sherbrooke and that sort of thing  
would inflame the people to feel that they were going  
to get something in the way of Japanese goods?"

(Page 13925 follows)



During those months in a moment.

"Is it not a fact that you have found evidence  
of that, that people have said about purchasing  
orders hoping to buy Japanese goods which they

were not able to buy? A. Certainly.

Q. And I suppose a great deal of this talk

that went into the newspapers about the closing

of a mill down in Sherbrooke and that sort of thing

would induce the people to feel that they were to

to get something in the way of Japanese goods?"

(Page 18833 Folio)

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"A. We were already shut down at that time .

Q. You were shut down ? A. Yes.

Q. What for ? A. Well, we were afraid of  
5 the higher prices of goods.

Q. You shut down too, did you ? A. Yes.

By The Commissioner: Louisville shut down?

A. Yes.

By M. McRuer: When did you shut down?

10 A. The fourteenth of December."

Now that was before the Japanese trade agreement  
was signed. The evidence goes on:

"Q. You shut down on the fourteenth of December?

15 A. Yes, I would like to go still further on that.

I don't blame it entirely on the Japanese  
situation. I would not want you to think that.

That is not correct. I also blame it on the fact  
that business was retarded because of the fear

20 that there might be these goods coming in, and that  
our orders were not coming in as they should, and  
we had a very large stock of goods on hand at

that time. I also think up until that point there  
was no over production of textiles in the country

25 and the reason I point that thing out is that

the production of this country on textiles is

such that it means that every yard of goods that  
comes in from outside sources will shut down a

loom in this country. It does not make any

30 difference what class and kind of goods it is at



1935

"A. we were already shut down at that time."

A. You were shut down?

A. Yes. A. Well, we were afraid of

the higher prices of goods.

A. You shut down too, did you? A. Yes.

by the Commissioner: how inevitable that down?

Yes.

"The fourteenth of December."

now that was before the Japanese trade agreement

was signed. The evidence goes on:

"Q. You shut down on the fourteenth of December?

A. Yes, I would like to go still further on that.

I don't blame it entirely on the Japanese

situation. I would not want you to think that.

That is not correct. I also blame it on the fact

that business was retarded because of the fact

that there might be these goods coming in, and that

we had a very large stock of goods on hand at

that time. I also think up until that point there

was no over production of textiles in the country

and the reason I point that thing out is that

the production of this country on textiles in

such that it means that every yard of goods that

comes in from outside sources will shut down a

little in this country. It just shut down a

little more and that was all that was left.

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all, whether it is Japanese, Italian, French  
or American. The situation is such in this  
country that all the goods that this country  
can consume can be manufactured by the number  
of looms in this country."

But it is a very different story from the story --

THE COMMISSIONER: How long did it remain closed?

MR. McRUER: For two days. That is stated at  
page 4808.

THE COMMISSIONER: In his letter he says he closed  
two mills.

MR. McRUER: Yes, there is another plant operated  
a chemical plant.

THE COMMISSIONER: Both at Louiseville ?

MR. McRUER: At Louiseville, my lord. The  
statement is at page 4808 by Mr. Geoffrion, that the  
mill remained closed for only two days.

MR. HEWARD: I do not think that is Mr. Geoffrion's  
remark. I think that must be a mistake. He knew  
nothing about it.

MR. McRUER: It must be some other counsel.  
It would be Mr. Lanotot very likely.

THE COMMISSIONER: Mr. Geoffrion was not at  
Louiseville.

MR. McRUER: At page 4808 of the evidence the  
Commissioner asked how long his mill in Louiseville  
remained closed, and counsel stated "only a very  
short period, two days." It goes on:





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"Q. 'This forced out of employment between 1,000 and 1,400 people ?' A. Is that if Mr. Marx ?"

The point is that the closing of the Marx mill was before there had been a treaty signed. They did not know what would be in the treaty, and Marx himself in his evidence does not attribute the closing of the mill to Japanese competition, and there is no evidence that it had Japanese competition. But when Mr. Marx complains about his sales at that time, we put that to rather an acid test. On page 22 of my brief I state that the mill was in operation in January, and it continued to increase its production in the months of February, March and April from 217,597 yards in January to 466,245 in the month of April. So that this mill that was being represented to the government as closing and throwing a lot of people out of work on account of Japanese competition was at that very time increasing its production and continued to increase its production for three months afterwards.

I again quote from Mr. Marx' evidence at page 4412:

"Q. You have not found any Japanese goods that are competing with you ? A. At the present time in Canada ?

Q. Yes. A. No, sir."

One should be entitled to expect from men in the position of Mr. Marx, one of the high officials in the association, one of the members of the delegation,





something more accurate than when he makes his statement to the government, seeking to impose on the consumers of Canada further restrictions on their rights to buy, and seeks to secure further benefits for the industry.

Coming to Canadian Cottons, and Canadian Cottons is a very important section of the industry, I think Mr. Tolmie and Mr. Dawson took an extremely active part in making representations to the government on different matters from time to time to secure benefits to the industry. On page 33 of my brief I deal with representations made by Canadian Cottons in respect to this matter. Mr. Tolmie had stated that according to Mr. Marx' report -- I will give the exact words appearing on page 33 of my brief:

"Mr. R. G. Tolmie, the General Manager of Canadian Cottons Limited, explained to the ministers that the Japanese goods had forced the shutting down of the Milltown mill which was making these goods, and produced cancellation of orders which had been received."

There are two statements that had been made. ~~MRXX~~

MR. BRUNEAU: You are now citing Mr. Marx as giving reliable evidence.

MR. McRUER: This is Mr. Marx' evidence, and Mr. Hallam gave evidence that it was sent out as a truthful report. Mr. Tolmie was before the commission at another time.

THE COMMISSIONER: Was he questioned about this?



nothing more accurate than when he makes his state-  
ment to the government, seeking to impose on the con-  
sumer the burden of the cost of the industry.  
to pay, and seeks to secure further benefits for the  
industry.

Coming to Canadian Cottons, and Canadian Cottons  
is a very important section of the industry, I think  
Mr. Tolmie and Mr. Dawson took an extremely active  
part in making representations to the government on  
different matters from time to time to secure benefits  
to the industry. On page 35 of my brief I deal with  
representations made by Canadian Cottons in respect  
to this matter. Mr. Tolmie had stated that according  
to Mr. Mark's report -- I will give the exact words  
appearing on page 35 of my brief:

"Mr. S. G. Tolmie, the general manager of  
Canadian Cottons Limited, explained to the  
ministers that the Japanese goods had forced  
the shutting down of the mill in which  
was making these goods, and produced cancella-  
tion of orders which had been received."

There are two statements that had been made.  
Mr. Tolmie: You are now giving Mr. Mark's  
giving reliable evidence.

Mr. Tolmie: This is Mr. Mark's statement, and Mr.  
Hollan gave evidence that it was sent out as a  
statement of fact. Mr. Tolmie was not present at the time.

Mr. Tolmie: Was he questioned about this?

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MR. McRUER: No, I do not think so.

MR. BRUNEAU: It was denied by Mr. Dawson.

MR. McRUER: Mr. Dawson was not there. I  
have some letters of Mr. Dawson's that I am going to  
5 read, but Mr. Marx, in a report sent out by Mr. Hallam,  
the secretary of the association, in which Mr. Hallam  
stated that it was intended to be a truthful account  
of what took place, and he had testified as to the  
10 truth of it with the exception of one slight matter,  
and that was whether the letter of January 10 was dis-  
cussed before the ministers or in the presence of Mr.  
Gordon or not --there was a question about that, but  
as to the rest, so far as Mr. Hallam is concerned  
15 he stated ~~that~~ and believed unequivocally that  
it was intended to be a truthful account of what took  
place.

MR. BRUNEAU: We are not members of that  
association.

20 MR. McRUER: That would not make a particle of  
difference as to Mr. Hallam's veracity. At any rate  
that is what was said by Mr. Marx and by Mr. Hallam to  
the industry.

Turning again to page 33 of my brief, on  
25 February 25, 1936, Mr. Dawson wrote to Mr. Dunning,  
exhibits Nos. 502 and 483. This is a letter enclosing  
a memorandum representing the Japanese situation on  
both rayon and cotton fabrics as becoming more in-  
creasingly serious each day. The flood is rising,  
30 according to this memorandum, each day. I quote from



No, I do not think so.

Mr. Brydie: Mr. Dawson was not there. I

have sent letters of Mr. Dawson's that I am going to

send, but Mr. Marx, in a report sent out by Mr. Brydie,

the secretary of the association, in which Mr. Brydie

stated that it was intended to be a financial account

of what took place, and he had testified as to the

truth of it with the exception of one slight matter.

and that was whether the letter of January 10 was dis-

missed before the ministers or in the presence of Mr.

Dawson or not--there was a question about that, but

as to the rest, as far as Mr. Brydie is concerned

he stated that it was intended to be a financial account

of what took place, and he had testified as to the

truth.

Mr. Brydie: It is not members of the

association.

Mr. Brydie: It would not make a article of

reference as to Mr. Brydie's veracity. At any rate

that is what was said by Mr. Marx and by Mr. Brydie to

the industry.

Turning again to page 23 of my brief, on

January 25, 1906, Mr. Dawson wrote to Mr. Brydie,

relative Nos. 202 and 422. This is a letter containing

information relative to the same.

With regard to cotton fabrics as mentioned more in-

formation relative to the same.

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Mr. Dawson's letter of February 1936:

"The Japanese situation on both rayon and cotton fabrics is becoming increasingly serious each day. I shall first refer to Japanese offerings of a somewhat low-grade taffeta 27" wide. Free offerings of this cloth early in January at ridiculously low prices threw our whole market into an actual panic, as a result of which it has been practically impossible to make sales ever since."

That is a clear statement of fact in regard to their own business. Nothing very equivocal about it. I propose to deal in a moment with what were the facts about their business. His letter goes on:

"At the first of January, a short time before we stopped production on these two ranges we had a total stock of 4,937 pieces. The above stock includes about 10 per cent of the total in process or manufacture which has to be woven out, and also includes a few hundred pieces of goods sold for forward delivery which we had to include owing to the fact that cancellations were being received."

His memorandum continues:

"As already stated, the sale of other and better qualities of rayons has been seriously affected by the Japanese situation, and although we kept on our normal full production for some time, I felt upon reviewing the sales and stock



Johnson's letter of February 1936:

"The Japanese situation on both paper and cotton fabric is becoming increasingly serious each day. I shall first refer to Japanese offerings of a somewhat low-grade fabric 27" wide. Free offerings of this cloth early in January of ridiculously low prices threw our market into an actual panic, as a result of which it has been practically impossible to make sales ever since."

That is a clear statement of fact in regard to their own business. Nothing very equivocal about it. I go on to deal in a moment with what were the facts about their business. His letter goes on:

"At the first of January, a short time before we stopped production on these two narrow we had a total stock of 4,937 pieces. The above stock included about 10 per cent of the total in process or manufacture which was to be given away and also included a few hundred pieces of goods sold for forward delivery which we had to include owing to the fact that cancellations were being received."

His statement continues: "As already stated, the sale of other and better quality of goods has been seriously affected by the Japanese situation, and since we kept on our normal full production for some time, I felt upon reviewing the sales and stock

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situations on February 7th, that regardless of the effect on employment and mill earnings, we could not justify ourselves in keeping up this production."

MR. BAUNEAU: The remainder of the paragraph alters the sense of that.

MR. McRUER: Then I will get the exhibit, and read it. It is exhibit 483. The remainder of the paragraph is as follows:

"On two better qualities of rayon taffeta known respectively as our ranges M8950 and M8955, on which we were running the limited number of looms in our organization suited for the most economical production of those qualities, I felt compelled to request the mill to reduce operations to a single shift, or in other words, only one-third of normal production. I find that on these two qualities which were very much alike, we had booked orders during the entire spring and fall seasons of 1935 totalling 36,155 pieces of 35 yards each, against which we had an unsold stock, including goods in process, of 13,899 pieces. This stock represents about 38 per cent of sales for the whole of last year."

Page 13932 follows



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attempts on February 7th, but regardless of  
the effect on employment and mill earnings, we  
could not justify ourselves in leaving up this

Mr. HANCOCK: The remainder of the paragraph  
states the same of that.

Mr. HANCOCK: Then I will get the exhibit, and  
read it. It is exhibit 22. The remainder of  
the paragraph is as follows:

"On the latter question of reason

testimony shown respectively as our names 1935  
and 1936, on which we were running the limited  
number of loans in our organization until for  
the most economical production of loans  
possible, I felt compelled to request the  
loan in 1935 and 1936.  
In other words, only one-third of the  
production. I find that on the two questions  
which were very much alike, we had looked or-  
dered in the entire working and full records  
of 1935 totaling 36,100 pieces of 33 yards  
each, against which we had an unsold stock  
including goods in process, of 13,800 pieces.  
This stock represents about 38 per cent of  
sales for the whole of last year."

W. BRYDIE

Then, on March 7th, 1936 Canadian Cottons wired to Mr. Dunning. The matter was urgent enough for a telegram and concluded with the words--

"Situation simply means gradual strangulation of Canadian mills".

MR. BRUNEAU: The entire telegram is relevant.

MR. McRUER: It is relevant, but I am dealing with the question of stating that the "situation simply means gradual strangulation of Canadian mills".

THE COMMISSIONER: Perhaps you better read the whole telegram.

MR. McRUER: Let us have the telegram, exhibit 504 and 129. Yes, 504, that will be it. The telegram is --

"Our Vancouver representative wires quote Gaults offered brocaded rayon taffeta which will land here ten and three quarters cents price in Japan equal three and half cents also twenty nine inch white flannelette similar weight our D one thirty seven landed here nine and three quarters cents price in Japan equal five and half cents both prices include sales tax understand they are buying sample shipments unquote our mill cost brocaded taffeta about nineteen cents and cotton flannelette ten cents at mill to which must add freight and sales tax for comparison stop situation simply means gradual strangulation"--

MR. BRUNEAU: Process.

MR. McRUER: "--gradual process strangulation Canadian mills".



Then, on March 7th, 1906 Canadian Cotton  
wired to Mr. Manning. The matter was urgent enough  
for a telegram and concluded with the words--  
"Very truly yours, Manning"  
Manning replied:  
"Mr. Manning: The entire telegram is relevant."  
MR. MANNING: It is relevant, but I am dealing  
with the question of stating that the "situation simply  
means gradual strangulation of Canadian mills."  
THE CHAIRMAN: Perhaps you better read the  
whole telegram.  
MR. MANNING: Let me have the telegram, exhibit  
504 and 129. Yes, 504, that will be it. The tele-  
gram is--  
"The Government of Canada has offered to pay for  
offered proceeds upon tariffs which will pay  
here ten and three quarters cents price in Japan  
equal three and half cents also twenty nine inc  
white flannelette similar weight our D one third  
seven landed here nine and three quarters cents  
price in Japan equal five and half cents both  
prices include sales tax understood they are  
buying sample shipments and note our mill cost  
proceeds tariffs about nineteen cents and so the  
flannelette ten cents at mill to which must add  
freight and sales tax for comparison stop  
situation simply means gradual strangulation--"  
MR. MANNING: That is  
MR. MANNING: "gradual process strangulation"  
"situation simply means gradual strangulation"

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THE COMMISSIONER: Now, the word "process" comes in after gradual?

MR. McRUER: "Simply means gradual process strangulation". Well then, during the months of March, April and May Mr. Dawson kept up correspondence with Mr. Dunning and Mr. Ilsley, and on May 22nd he wrote to Mr. Dunning in reference to the Milltown mill--

"Upon my return this morning from a brief business trip to New Brunswick I found awaiting me your kind letter of the 18th instant.

At our St. Croix Mill at Milltown, N.B., I found a rather serious condition in regard to our rayon production. As our warps are woven out I am afraid there is nothing for us to do but to stop the looms because we cannot allow that plant to continue to increase the loss that it made last year. Within a short time I will send you the actual figures.

The thought of closing that mill down gives me very serious concern, not only for sentimental reasons seeing that New Brunswick is my native Province, but also because many of our workers there own their own homes and the closing of our mill would mean that Milltown would become a deserted village. The situation there has become so serious that I may ask you to accord me a personal interview to discuss the matter at a not distant date.

We have just received information that Japanese exports of cotton goods for the last nine months





"totalled 1,961,000,000 yards".

That didn't all come into Canada.

"What a huge business these people have developed, and there is no doubt but that the textile industry of the world is facing a very serious condition of affairs due to this competition".

Now, at page 7162 Mr. Dawson admitted that the Milltown mill was never closed. He was pressed to produce evidence of cancellations of orders and he was unable to produce any orders that one could say -- I think there were two later on only that referred to Japanese goods at all.

MR. BRUNEAU: The evidence was filed with the secretary on September 16th.

MR. McRUER: Please, Mr. Bruneau, I am going to deal with those things. I will try and be as fair as I can.

MR. BRUNEAU: I am helping you to be truthful.

MR. McRUER: Thank you very much, but I don't need any help. If I want to learn the truth I will not go to that quarter.

THE COMMISSIONER: Just a minute; I didn't hear the interruption, Mr. Bruneau.

MR. BRUNEAU: I am merely assisting my learned friend in bringing out the truth.

THE COMMISSIONER: I think if you have anything you think you should say you better rise and say it to me and then it will be more regular, because I do not hear what you are saying sitting back there.

MR. McRUER: Since Mr. Dawson gave evidence -- and I just had it on my tongue to mention it when Mr.



"totalled 1,251,000,000 yards."

That didn't all come into Canada.

"That a huge business those people have done  
opened, and there is no doubt but that the textile  
industry of the world is feeling a very serious  
condition of affairs due to this competition."

Now, at page 718 Mr. Dawson admitted that  
the Milltown mill was never closed. He was pressed  
to produce evidence of cancellations of orders and  
he was unable to produce any orders that one could

say -- I think there were two later on only that

referred to Japanese goods at all.

MR. BROWNE: The evidence was filled with the

secretary on September 18th.

MR. McLELLAN: Please, Mr. Browne. I am going

to deal with those things. I will try and be as fair

as I can.

MR. BROWNE: I am helping you to be truthful.

MR. McLELLAN: Thank you very much, but I don't

need any help. If I want to learn the truth I will

be very patient.

THE COMMISSIONER: Just a minute; I didn't hear

the interruption, Mr. Browne.

MR. BROWNE: I am merely examining my learned

friend in bringing out the truth.

THE COMMISSIONER: I think if you have anything

you think you should say you better rise and say it

to me and then it will be more regular, because I do

not hear what you are saying sitting back there.

MR. McLELLAN: Please Mr. Browne, your evidence

is that it is on my tongue to mention it when Mr.

Bruneau's impatience burst forth -- since he gave evidence a number of orders that were said to be cancellations of orders were filed with the Secretary of the Commission, but no evidence that they had anything to do with Japanese competition, but then again they must face this fact, and that is their purchases of yarn at the time these statements were being made. In the first five months of 1936 Canadian Cottons purchased 239,676 pounds of yarn as against 204,802 pounds in the first five months of the year 1935, and in the month of March just at the time that these representations were being made of the impending catastrophe to the business the purchases reached the second highest point that they had reached in the previous two years.

Now, exhibit 732; in the month of January, 1936 Canadian Cottons purchased 48,196 pounds of rayon yarn from Courtaulds. That is 1936.

THE COMMISSIONER: January?

MR. MORUER: January, 1936. I will give it in round figures, 48,000 pounds and in January, 1935 it was 24,000 pounds.

THE COMMISSIONER: How much?

MR. MORUER: 24,000 pounds, and the Milltown Mill is the only mill that makes rayon for Canadian Cottons. In the month of February the purchases were 41,263 as against 43,609 the previous February. When I spoke of the high point I said March, but I meant to say May that they had reached the high point. No, it is April. In the month of March they purchased





37,000 pounds as against 42,000 pounds in the month of March the previous year. In the month of April they purchased 65,000 pounds as against 43,000 pounds in the month of April the previous year, and as to the total altogether down to August they purchased 402,000 as against 373,000 for the same period the previous year.

Well, they go up and down some months but taking their volume of purchases from Courtaulds when they were laying in raw material did it indicate that they were justified in using the language that they used to the officials of the Government at that time. There may be excuses for it. There may be explanations, but if they had gone to the Government and said "we are buying more yarn these months than we did before but we are apprehensive we may not sell the goods and we are going to close our factory" the members of the Government would say "why are you buying yarn if you mean that". I don't know what the explanation of it is, but those are the facts nevertheless.

Well, the industry has not been strangled. We have gone on, and we are now in February of the next year, and fortunately Canadian Cottons have been able to increase their wages just a few days after this inquiry closed, and in publishing the notice in the papers they said:

"The advance in wages now announced is made possible at this time by the considerably larger volume of orders booked during recent weeks,





"permitting in turn fuller operations at most of our mills".

THE COMMISSIONER: You say that announcement was made?

5 MR. McRUER: The announcement was made in the Montreal Gazette on the 4th of December, 1936, page 36 of my brief.

MR. BRUNEAU: That is an advance all over.

10 MR. McRUER: Yes; we are happy that their fears that were expressed in the correspondence with the Government have not been realized.

THE COMMISSIONER: We will adjourn now until half past ten.

15 -- The Commission adjourned at 5.25 p.m., Tuesday, February 2nd, 1937 to resume at 10.30 a.m., Wednesday February 3rd, 1937.

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permitted in turn later operations of most  
of our mills.  
THE COMMISSIONER: You say that announcement  
was made?  
MR. MORRIS: The announcement was made in the  
Montreal Gazette on the 4th of December, 1936, page 5  
of my brief.  
MR. BRUNNEN: That is an advance all over.  
MR. MORRIS: Yes; we are happy that their terms  
that were expressed in the correspondence with the  
Government have not been realized.  
THE COMMISSIONER: We will adjourn now until  
half past ten.  
— The following statement of J. H. Morris, Esq.,  
dated 1st February 1937, 1937.

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ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S. Whiteley, Secretary,

ONE HUNDRED AND SECOND DAY

(February 3rd, 1937)

A R G U M E N TRobert Brydie  
Official Reporter.



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(Postage and Fees)

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ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S. Whiteley, Secretary.

A p p e a r a n c e s :

J.C. McRuer, K.C. and )

E. Beauregard, K.C. )

Commission Counsel,

R.L. Kellock, K.C.

For Primary Textiles  
Institute.

C.G. Heward, K.C. )

Aime Geoffrion, K.C. )

For Dominion Textile  
Company.

C.T. Ballantyne, )

S.G. Dixon, K.C.

For Courtaulds Limited,

L.A. Forsyth, K.C.

For Canadian Celanese Ltd.  
and Canadian Silk Products  
Limited.

A.S. Bruneau, K.C.

For Canadian Cottons,

Thos. Tremblay, K.C.

and

For M.E. Binz Co. Limited.

J. H. Hebert,

Francois Lajoie, K.C.

For Wabasse Cotton Co.

-- o o o --



1925

ROYAL CANADIAN MOUNTED POLICE

HON. MR. JUSTICE W. A. J. TUCKER

Commissioner

A. S. Mitchell, Secretary

REPORT

1. G. McRae, K.C. and  
 E. Hennegard, K.C.  
 For Primary Justice  
 Institute

2. G. McRae, K.C.  
 E. Hennegard, K.C.  
 For Dominion Justice  
 Institute

3. G. McRae, K.C.  
 E. Hennegard, K.C.  
 For Canadian Justice  
 Institute

4. G. McRae, K.C.  
 E. Hennegard, K.C.  
 For Canadian Justice  
 Institute

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Ottawa, Ontario,  
Wednesday, February 3, 1937

-- The Commission resumed at 10.30 a.m.

5       MR. KELLOCK: My lord, before my friend resumes this  
morning there is a matter I should like to mention for a  
moment, and that is your lordship may recall when Mr.  
Howson, the auditor who prepared the statements on the  
10       various companies, was before your lordship giving  
evidence I was at a good deal of pains to show, and  
Mr. Howson clearly admitted that the amounts which  
appear throughout these exhibits, and which he had called  
"net profits" were not, in fact, net profits, but were  
15       amounts before the companies had even paid expenses  
such as interest on monies borrowed from the bank and  
monies borrowed from bondholders.

20       Now, throughout the brief which my friend is now  
reading from to your lordship, and which is receiving,  
according to the press yesterday the widest publicity,  
even before my friend has reached very far into it,  
throughout that brief, some approximately 140 or more  
pages, my friend has said that these companies have  
earned net profits, or net revenue, or net earnings, and  
25       he has used the amounts which Mr. Howson said were not,  
in fact, net profits. Now, in view, my lord, of the  
wide publicity that this brief is getting, and the fact  
that truth does not always catch up with error, from my  
acquaintance with my friend I know my friend wants to be  
30       fair, and I ask my friend now if he will correct the



Ontario, Ontario,  
Toronto, Ontario

-- The Commission resumed at 10.30 a.m.

MR. KIRKWOOD: My lord, before my friend resumes his  
 morning there is a matter I should like to mention for  
 moment, and that is your lordship may recall when Mr.  
 Howson, the auditor who prepared the statements on the  
 various companies, was before your lordship giving  
 evidence I was at a good deal of pains to show, and  
 Mr. Howson clearly admitted that the amounts which  
 appear throughout these exhibits, and which he had called  
 "net profits" were not, in fact, net profits, but were  
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 such as interest on monies borrowed from the bank and

Now, throughout the brief which my friend is now  
 reading from to your lordship, and which is receiving  
 according to the press yesterday the widest publicity  
 and which is being read and revised and the same is  
 repeated, my friend has said that these companies have  
 earned net profits, or net revenue, or net earnings,  
 he has used the amounts which Mr. Howson said were not  
 in fact, net profits. Now, in view, my lord, of the  
 fact that this brief is getting, and the fact  
 that from time to time it is being read and revised and  
 that it is being read and revised and the same is  
 repeated, my friend has said that these companies have  
 earned net profits, or net revenue, or net earnings,

impression which must be received by anybody who reads that section of his brief without that explanation that these profits and percentages which are called net profits are not, in fact, net profits. They are amounts before the company has paid all its expenses, and under no circumstances can be regarded as net profits.

MR. McRUER: Well, I quite agree with my friend that I have the greatest anxiety to be absolutely accurate in anything I say either here or in my brief. Mr. Howson was with me every moment when I was preparing my brief in respect to the investments and analyses, and I don't think that I have used a single term that is inaccurate. I will be very glad to go over it with my friend and if he can show me wherein there is anything in it that is inaccurate in the expression and use of the term "net profits" I shall certainly be very glad to correct it. I haven't the vaguest idea of what he is referring to, but I will certainly sit down with him and with Mr. Howson and we will go over it. I certainly clash with my friend on one very fundamental principle that is expressed in his brief, and that is you do not determine profits until after you have paid income tax.

MR. KELLOCK; I didn't mention income tax. I said bank interest and bond interest.

MR. McRUER; But I have dealt with net earnings throughout, and I will go over it with my friend, and if there is anything in my brief that he thinks is not correct I will have it corrected.

THE COMMISSIONER: Well, in the first place are you



impression which must be received by anybody who reads that section of his brief without that explanation that these profits and percentages which are called profits are not, in fact, net profits. They are gross before the company has paid all its expenses, and until no circumstances can be regarded as net profits.

MR. McLEOD: Well, I quite agree with my friend that I have the greatest anxiety to be absolutely accurate in anything I say either here or in my brief. Mr. McLEOD was with me every moment when I was preparing my brief in respect to the investments and analyses, and I don't think that I have used a single term that is inaccurate. I will be very glad to go over it with my friend and if he can show me wherein there is anything in it that is inaccurate in the expression and use of the term "net profits" I shall certainly be very glad to correct it. I haven't the vaguest idea of what he is referring to, but I will certainly sit down with him and with Mr. McLEOD and we will go over it. I certainly clash with my friend on one very fundamental principle that is mentioned in his brief, and that is how to determine profits until after you have paid income tax.

MR. McLEOD: I didn't mention income tax. I said bank interest and bond interest.

MR. McLEOD: But I have dealt with net earnings throughout, and I will go over it with my friend, and in that is explained as to what may be taken as net. I will have it corrected.

MR. McLEOD: Well, in the first place are you

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agreed on what comes within the definition of net profits, leaving aside this income tax item? Are you otherwise agreed that from net profits should be deducted certain things? Are you both agreed on that?

5 MR. McRUER: I want to make sure that I am. I want to discuss that with Mr. Howson.

THE COMMISSIONER: If you are talking at cross purposes there is not much I can do for you.

10 MR. KELLOCK: Surely there can be no controversy that there can be no net profit until bank interest and interest on bonds, at least, have been deducted.

THE COMMISSIONER: I want to know now if you have some understand in your use of the term "net profits".

15 MR. McRUER: It depends, I think, very largely on how that is used. I want to discuss it with Mr. Howson. I want to be absolutely accurate.

20 THE COMMISSIONER: In any event, you are saying this Mr. Kellock, and it is heard by the same people who will hear what Mr. McRuier says. You say that Mr. McRuier in using these figures as net profits is not making due allowance in your regard for certain items which should come out of these figures?

MR. KELLOCK: Yes, my lord.

25 THE COMMISSIONER: Those are interest on bonds --

MR. KELLOCK: Interest on bonds and bank interest, and I will leave the question of income tax for the moment because I am prepared to argue that later.

30 THE COMMISSIONER: We will leave it at that, and you two get together and, if necessary, we can discuss it again.



...on that some within the jurisdiction of the  
...to, leaving aside this income tax item, the you  
...which raised that from not profits should be debited  
...things? The you both agreed on that?  
...I want to make sure that I am. I want  
...to discuss that with Mr. Henson.  
...The Chairman: If you are talking at cross  
...purposes there is not much I can do for you.  
...Mr. Henson: I really think there can be no controversy  
...that there can be no net profit until such interest  
...and interest on bonds, at least, have been deducted.  
...The Chairman: I want to know now if you have a  
...understanding in your use of the term "net profit".  
...Mr. Henson: If I understand, I think, very largely on the  
...that is used. I want to discuss it with Mr. Henson. I  
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...I hear what Mr. Henson says. You say that Mr. Henson  
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MR. McRUER: I want to know where the term is used that my friend complains about. I will sit down with you and go over it, and if there is anything that requires to be corrected and cleared up I will do it.

MR. KELLOCK: I want to call your lordship's attention to ten lines of the evidence where this matter was dealt with and we were at a great deal of pains to see that this would be accurate when it was dealt with. Now, 12547, line 22, we were discussing this very thing when Mr. Howson was in the box.

THE COMMISSIONER: What page of the evidence?

MR. KELLOCK: 12547, my lord; we were discussing this very thing at line 22. This is a question, my lord.

"Q. As I understand you if we keep on reading down we see it really isn't a net figure at all because there are these charges to come out?"

That is bank interest and bond interest, and your lordship said:

"It is very far from it.

THE WITNESS: It is net revenue from trading.

BY MR. KELLOCK: Q. It is not a revenue figure at all?

A. It is the net revenue from the trading profits.

Q. What I am afraid of is if your description is read into the record as 'combined net revenue' and we haven't got the rest of the statement --

A. The statement has already been filed so there is no danger of that.

MR. McRUER: Are you afraid we won't read the rest





That is, read down the page and see these things have not been taken out.

THE COMMISSIONER: Are you afraid we would read the rest of it?

5 MR. KELLOCK: "We won't read the rest of it"

That is exactly what my friend has done in the brief. He has taken these figures that Mr. Howson calls net revenue up in the centre of the page which he says is without deducting bank interest and interest on loans and bonds. My friend has not read down the page and he has got these entirely erroneous figures in his brief.

10 THE COMMISSIONER: So far as I am concerned we have not reached that part of his brief.

15 MR. KELLOCK: What I am worried about --

THE COMMISSIONER: You are anticipating an objection that you would properly take when that part of his brief is reached.

20 MR. KELLOCK: I would not have mentioned it this morning except there is 2½ pages in papers which have a nation wide circulation, where this whole brief is digested. This thing is going out and my clients are represented as having made these net profits and it isn't true.

25 THE COMMISSIONER: Well, you have made your statement.

MR. KELLOCK: I will be glad to sit down with my friend and show him.

30 MR. McRUER: I still am very much surprised if there is anything in the brief that is not absolutely accurate, and accurately stated.



right is, read down the page and see those things  
have not been taken out.

THE COMMISSIONER: Are you saying we would read  
the rest of it?

MR. WATSON: We won't read the rest of it.

That is exactly what my friend has done in the brief  
he has taken these figures that Mr. Hanson calls not  
revenue up in the section of the page which he says  
without affecting bank interest and interest on loans  
and bonds. My friend has not read down the page and  
has got these entirely erroneous figures in his brief.  
THE COMMISSIONER: As far as I am concerned we  
not needed that part of the brief.

MR. WATSON: That I am worried about --

THE COMMISSIONER: You are not interested in this  
that you would properly take what that part of his  
is needed.

MR. WATSON: I would not have mentioned it this  
morning except there is a row in a case which has  
a nation wide circulation, where this whole thing is  
directed. This thing is going out and my clients  
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isn't true.

THE COMMISSIONER: Well, you have made your case.

MR. WATSON: I will be glad to sit down with  
him and show him.

MR. WATSON: I still am very much surprised if  
there is anything in the brief that is not  
correct, and necessary.

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THE COMMISSIONER: How did the brief get all this publicity?

MR. McRUER: It was handed out to the press when it was filed.

5 THE COMMISSIONER: Were they all handed out?

MR. McRUER: Yes -- I don't know, I suppose my friend handed his to the press as well.

MR. KELLOCK: My friend, Mr. Murray, asked me for mine during the course of the day, and I gave it to him.

MR. McRUER: Mr. Murray asked some time before if he could have it for a day or two so he could get his work done and not have to do it all yesterday and I let him have it.

15 MR. HEWARD: May it please the court, may I interrupt for a moment in regard to the same press report which appeared in a newspaper of wide circulation yesterday.

20 THE COMMISSIONER: What is the mystery about the name of this paper?

MR. HEWARD: It is the Toronto Daily Star.

MR. McRUER: A perfectly reliable paper; it is not Hush.

25 MR. HEWARD: It probably appeared in other papers if it is part of a syndicated press report, but the one we have seen is the Toronto Daily Star, and there is a large heading. It may have appeared in other papers, but in any event here it appears in a paper of very wide circulation, and there is  
30 a large heading before the report which gives a digest



1896

THE COMM. STATER: How did the brief get all this  
MR. McNEIL: It was handed out to the press when I  
handed him to the press as well.  
MR. McNEIL: Yes -- I don't know, I suppose my friend  
asked me for  
mine during the course of the day, and I gave it to  
him.  
MR. McNEIL: Mr. Murray asked some time before it  
he could have it for a day or two so he could get it  
work done and not have to do it all yesterday and I  
let him have it.  
MR. McNEIL: May it please the court, may I  
interrupt for a moment in regard to the same press  
action yesterday.  
MR. McNEIL: A perfectly reliable paper; it is not  
MR. Howard: It probably appeared in other papers  
if it is part of a syndicated press report, but the  
one we have seen is the Toronto Daily Star, and  
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in other papers, but in any event here it appears  
in a form of very wide circulation, and I have  
before the report which gives a digest

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or summary of my learned friend's very able factum or brief, and the first heading is "Charges Textile Firms Falsified Income Returns", and in a later edition it states that --

5        "Among the highlights of the indictment of the textile industry of Canada in a 125,000 word brief submitted to the royal commission by J. C. McRuer, senior commission counsel, are"-- and then skipping a paragraph --

10        "Several companies, notably Canadian Cottons Ltd. and Dominion Textile Co. Ltd., have escaped payment of full taxes, and falsified income tax returns. The department of national revenue has a claim against Canadian Cottons of \$409,586, exclusive  
15        of possible penalties. Mr. McRuer insists the law has been transgressed and recommends action."

I submit, my lord, that is not a proper analysis or reference to my learned friend's brief, that he didn't say that in regard to the Dominion Textile  
20        Company --

MR. McRUER: I agree with my friend.

MR. HEWARD: I am glad of that.

MR. McRUER: My friend is entirely right. There is  
25        nothing in the brief to that effect in regard to the Dominion Textile Company or any other company except Canadian Cottons.

MR. BLAIR GORDON: Fortunately the Star will have to answer and not you.

30        MR. HEWARD: I am very glad to have my learned friend's statement on that point, because naturally these press



or summary of my learned friend's very able review  
or brief, and the first heading is "Gauges for  
the Federal Income Returns", and in a later  
it states that --

"Among the highlights of the findings of the  
this industry of Canada in a 198,000 word paper  
submitted to the royal commission by J. C. de  
senior commission counsel, and then skip

"Several companies, notably Canadian Cotton Ltd  
and Dominion Textile Co. Ltd., have escaped  
of full taxes, and related income tax returns.

The department of national revenue has a claim  
of possible penalties. Mr. de la Roche states the  
and recommendations section."

I submit, my lord, that is not a proper analysis  
or reference to my learned friend's brief, that he  
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MR. ROBERT: I agree with my friend.

MR. HARRIS: I am glad of that.

MR. ROBERT: My friend is entirely right. There is  
nothing in the brief to that effect in regard to the  
Dominion Textile Company or any other company except  
Canadian Cotton.

MR. HARRIS: Fortunately the latter will have to  
submit and not you.

MR. ROBERT: I am very glad to hear my friend  
agrees on this point, because I am sure that

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reports go far in advance of any statement which we can make in the ordinary course of our argument and they should be corrected at once where they are incorrect, and I think my learned friend has been improperly reported and that there has been no evidence, nor does my learned friend charge that Dominion Textile Company Limited in any way falsified its reports. There was no evidence whatsoever as to what returns Dominion Textile Company Limited made to the Income Tax Department or to any other taxing authorities.

MR. McRURER: In regard to what my friend Mr. Heward says, he is absolutely correct as to what is contained in the brief. The brief speaks for itself and, of course, these things do happen in newspaper offices, but I cannot help that.

THE COMMISSIONER: If all these briefs were made available to the press at the same time, or as soon as each one was available, and the press are taking the course of making comments on them of course they are doing so at their own risk. That is all I can say here because the thing is Dominion wide, but I am glad to hear what you say in concurring with Mr. Heward's objection. The matter may come up again when that portion of your brief is reached. I think you were quite proper, Mr. Heward, to bring my attention to this this morning in view of the publication of this matter.

MR. HEWARD: There is one thing; I think I made a mistake in my previous remarks. I said I understood this was syndicated. I understand this report does not come from any syndicated source. Mr. Murray of the Canadian





Press also asked us for a copy of our brief which we gave to him, but I understand that this report which appears in the paper has nothing to do with the Canadian Press and did not emanate from that source. The Canadian Press asked for a copy of our brief and received it, but I understand this report is not based on any Canadian Press despatch.

MR. McRUER: No, The Toronto Star had a copy of the brief. I treated the press generally in the same way I treated Mr. Murray, and that is that those that have asked for a copy of the brief have got one. I think that is desirable because then they can quote accurately and correctly instead of something that is taken down in haste, and I think for the sake of accuracy that is the best way.

THE COMMISSIONER: Yes, the course you followed was quite proper.

MR. KILLOCK: My lord, I mentioned Mr. Murray's name but it was only in answer to your lordship's question as to whether or not my brief had been handed out to the press. Late in the day Mr. Murray asked me for a copy -- I think at the close of the day -- and I gave it to him, but I do not hold Mr. Murray responsible in any way for the publication. In fact, I don't know who was responsible for the publication, but I certainly was not directing anything in Mr. Murray's direction as far as that is concerned.

MR. McRUER: My friend is entirely right. As far as the Toronto Star is concerned they had a copy of the



Press also asked us for a copy of our brief which we gave to him, but I understand that this report which appears in the paper has nothing to do with the brief. Press and did not originate from that source. The press asked for a copy of our brief and received it. I understand this report is not based on any Canadian source.

MR. MORRIS: No, the Toronto Star had a copy of the brief. I treated the press generally in the same way I treated Mr. Murray, and that is that those that are asked for a copy of the brief have got one. I think that is desirable because then they can quote accurately and correctly instead of something that is taken down in haste, and I think for the sake of accuracy that is the best way.

THE CHAIRMAN: Yes, the source you followed was quite proper.

MR. MORRIS: My lord, I mentioned Mr. Murray's name but it was only in answer to your lordship's question as to whether or not my brief had been handed out to the press. Late in the day Mr. Murray asked for a copy -- I think at the close of the day -- and I was not able to give him one. In fact, I don't know who was responsible for the publication, but I certainly was not directing anything in Mr. Murray's direction.

MR. MORRIS: My lord, I am sorry that I cannot give you a copy of the brief.

brief and Mr. Murray is in no way responsible for what was said. There is no question about that. As to the other matter Mr. Howson and I will confer with Mr.

5 Kellock, and if there has been any error or mistake in respect to any expression I am only too glad to have it corrected. If my friend had drawn it to my attention earlier it certainly would have been corrected; if there is anything wrong, if there is anything said that ought not to have been said I would have had it  
10 corrected before the brief was filed.

MR. KELLOCK: I didn't have it before the brief was filed.

MR. McRUER: I mean before we commenced our hearing  
15 yesterday. My friend had access to me at any time to draw anything like that to my attention. I am sure neither Mr. Howson nor myself have any desire whatever that there should be one figure that is incorrect, and I told my friend some long time ago that I was anxious  
20 that he should have the greatest access to any representations I should make to the Commission for the very reason that I wanted any corrections to be made that ought to be made because my friend will realize, and I think all my friends will realize that in the preparation  
25 of a brief such as we have had the responsibility of preparing here I have had to cover, with Mr. Beau-regard, the whole field. They have their respective clients to look after and it is quite easy in looking  
30 after one company, or two companies, or three companies, to be very meticulous, and I tried to be meticulous



brief and Mr. Murray is in no way responsible for it  
was said. There is no question about that. As to  
other matter Mr. Lawson and I will confer with Mr.  
McLack, and if there has been any error or mistake  
in respect to any expression I am only too glad to  
have it corrected. If my friend had drawn it to my  
attention earlier it certainly would have been corrected  
if there is anything wrong. If there is anything said  
that ought not to have been said I would have had it  
corrected before the brief was filed.  
MR. McLECK: I didn't have it before the brief was  
filed.

MR. MURRAY: I mean before we commenced our hearing  
yesterday. My friend had access to me at any time to  
draw anything like that to my attention. I am sure  
neither Mr. Lawson nor myself have any desire whatever  
that there should be one figure that is incorrect, and  
I told my friend some long time ago that I was  
that he should have the greatest access to my  
attention I should make to the Commission for the very  
reason that I wanted any corrections to be made that  
might be made before my friend will testify, and  
I think all my friends will testify that in the  
action of a brief such as we have had the responsibility  
of preparing that I have had to bear, with Mr. Law-  
son, the whole field. They have their responsibility  
always in front of them and it is only now in making  
it out on the way, or the Commission, or the Commission  
to be very careful, and I tried to be very

with them all, but if an error occurs here or there on anything that is said I can assure them it is through no desire of anyone associated with the Commission that such an error should take place.

5 MR. KELLOCK: It is not confined to one company. I have got 400 companies to look after. It is not confined to one.

MR. McRUER: We didn't deal with them all. You may be relieved of that.

10 THE COMMISSIONER: I think now that we understand the situation. You had better proceed with your brief. You were dealing with the matters you refer to on page 36.

15 MR. McRUER: Yes, my lord.

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ARGUMENT BY MR. McRUER, K.C. (Continued):

20 In respect to the notice that appeared in the Montreal Gazette in regard to the increase in wages that was given to the employees of the Canadian Cottons about December of last year I might say that although I do not believe it is quoted in my brief, a notice in almost identical terms was published by the Dominion Textile Company, and in response to a letter from the Secretary of the Commission the Dominion Textile Company wrote to the  
25 Secretary on the 12th of December, 1936 --

THE COMMISSIONER: Mr. McRuer, before you go into the Dominion Textile Company matter at all what is the effect of this 6% increase in the wages?

30 MR. McRUER: To restore the wages --

THE COMMISSIONER: How does it put the wages now in



anything that is said I can assure them it is through  
the desire of anyone associated with the Commission  
such an error should take place.

MR. KELLER: It is not confined to one company. I  
got 400 companies to look after. It is not confined

MR. WEBSTER: We didn't deal with them all. You may  
be relieved of that.

MR. KELLER: I think now that we understand  
situation. You had better proceed with your brief.  
You were dealing with the matters you refer to on page

MR. WEBSTER: Yes, my lord.

RECORDED BY MR. MOHR, K.C. (continued):

In respect to the notice that appeared in the  
Gazette in regard to the increase in wages that was  
to the employees of the Canadian Cottons about December  
of last year I might say that although I do not believe  
it is quoted in my brief, a notice in almost identical

terms was published in the Dominion Gazette  
in January, 1914, in which the company was  
mentioned as having been in the  
position of being in the same

MR. MOHR: Mr. Webster, before you go into  
the question of the matter at all what is the  
attitude of this company in the wages?

MR. WEBSTER: In January, 1914, the company  
was in the position of being in the same

comparison to what they were before the first cut?

MR. McRUER: The idea is to restore it to the level they were on before the first cut, I think.

Probably Mr. Kellock and Mr. Bruneau could answer that in respect to the Canadian Cottons, although Mr. Heward points out to me that when I say the restoration was to the level that prevailed prior to the first cut that applies to the Dominion Textiles. I know it applies to Dominion Textiles. Whether this 6% restores them in the Canadian Cottons I am not sure.

MR. BRUNEAU: My instructions are it does restore it and goes even a little further, very slightly.

THE COMMISSIONER: Yes, I thought that 5½% would be a restoration.

MR. BRUNEAU: 5%; there are some people who are slightly higher.

MR. McRUER: I will read, your lordship, the letter dated the 9th of December from Canadian Cottons to Mr. Whiteley which answers your lordship's question, I think,

" As requested in yours of the 8th instant, we are pleased to enclose herewith copy of the notice which was posted in our several mills as well as that of Cornwall & York Cotton Mills Company, Limited, announcing a recent advance in wages.

We may say that in actual practice we have gone further than the notice indicates, and are putting the increase into effect in the case of



comparison to what they were before the first cut?  
MR. McNEIL: The idea is to restore it to the level  
they were on before the first cut, I think.  
[Faint text]  
that in respect to the Canadian Cottons, although  
Mr. Howard points out to me that when I say the  
restoration was to the level that prevailed prior to  
the first cut that applies to the Canadian Cottons.  
I am in accord with that.  
this is restored then in the Canadian Cottons I am not  
sure.  
MR. BRADIE: My instructions are to look restore  
it and goes even a little further, very slightly.  
THE CHAIRMAN: Yes, I thought that you would  
a restoration.  
[Faint text]  
[Faint text]  
MR. McNEIL: I will read, your honor, the letter  
dated the 23rd of December from Canadian Cottons to  
[Faint text]  
I think.  
"As requested in some of the 23rd instant, we  
are pleased to enclose herewith copy of the notice  
which was posted in our several mills as well as  
that of Cannel & York Cotton Mills Company.  
[Faint text] announcing a recent advance in wages.  
[Faint text]  
[Faint text] the notice in letter, and are  
[Faint text] the increase into effect in the case of

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"those workers who, on account of being paid on a Minimum Wage basis at the time of the 10% reduction in April, 1933, were not then reduced. These workers previously participated in the 5% advance made in April, 1934, so that they will now be on a scale of practically 11% above the Minimum Wage rates.

With this information before you we do not know of anything further that we can say in response to your request for "Full details of the increases in wage scales". It is in reality a straight increase of practically 6% right across the board as compared with the rates now in the hands of the Commission."

That doesn't really answer it yet. There had been a 10% reduction.

THE COMMISSIONER: Well, what I gathered from what you have read is that insofar as those are concerned who had to submit to the 10% reduction they are getting an 11% restoration; is that right?

MR. BRUNEAU: Yes. Those who were not affected are even getting it.

THE COMMISSIONER: They are getting 6%.

MR. BRUNEAU: They already got 5% in 1934.

THE COMMISSIONER: That class too?

MR. BRUNEAU: Yes, there is the class that was not reduced in 1933. They got the benefit of the first 5% and of the second 6%.

THE COMMISSIONER: And then get 6% now.

MR. BRUNEAU: You will remember the case of the young



"those workers who, on account of being paid on a minimum wage basis at the time of the 10% reduction in April, 1933, were not then reduced. These workers previously participated in the 5% advance made in April, 1934, so that they will now be on a scale of practically 1 1/2 above the minimum wage."

"If this information before you is not known of anything further that we can say in response to your request for 'full details of the increase in wage scales'. It is in reality a straight increase of practically 5% which covers the board as compared with the rates now in the hands of the Commission."

"It doesn't really answer it yet. There has been a reduction."

THE COMMISSIONER: Well, what I gathered from what you have said is that instead of those who were concerned had to submit to the 10% reduction that are getting no 1 1/2 restoration; is that right?

MR. BRIDGE: Yes. Those who were not affected are getting it.

THE COMMISSIONER: They are getting 5%.

MR. BRIDGE: They already got 5% in 1934.

THE COMMISSIONER: That class too?

MR. BRIDGE: Yes, there is the class that was not reduced in 1933. They got the benefit of the first

part of the second 5%.

THE COMMISSIONER: And that was the first

part of the second 5%.

man at Cornwall who had got an increase, and because he figure out he should have got \$11.55 and he was only getting \$11.50 he was quite upset by it. It was substantially 5% they got added on.

5 MR. McRUER: Now, the statement of the Dominion Textile Company reads as follows :

"Effective from December 7th, 1936 onward we plan to increase wages in the company's mills"--

10 THE COMMISSIONER: Pardon me a moment; you are on the Dominion Textile now?

MR. McRUER: Yes, my lord.

THE COMMISSIONER: Before that, this percentage of increase is on the level of the reduced rate?

MR. BRUNEAU: Yes.

15 THE COMMISSIONER: It is 11% better than the lowest rate they had?

MR. BRUNEAU: That is my instructions.

THE COMMISSIONER: 11% better than that.

20 MR. BLAIR GORDON: That, my lord, is the reason why the two added together come to more than the 10% cut, because we were building up from a smaller figure and we had to put five and six to get where we were.

MR. McRUER: 11% on is equal to 10% off.

25 MR. HEWARD: Your reference to Dominion Textile Company is on page 31 of your brief,

30 MR. McRUER: I have referred to the increases -- what the Dominion Textile Company said, at page 31, in respect to the increases, and the increases they made were, I think, designed to restore the wages to the level that they were at before the cut had taken place





in 1933.

THE COMMISSIONER: I don't see your reference on page 31.

MR. McRUER: It is at the bottom of the page.

5 THE COMMISSIONER: Yes; the reference to "company" there means the Dominion Textiles?

10 MR. McRUER: Yes, my lord. So that the position that we arrive at at the end of 1936 fortunately is that the wages have been increased, and increased on account of the greater volume of business done by the companies, and also we have the matter that my friend, Mr. Beauregard deals with, and that was what occurred at Montmorency last fall where the workers were asked to come back, going off at seven and asked to come back at twelve, I think it is, on account of the rush in getting the orders out. So that apart altogether from the situation created there among the workers it is an indication that at least the business has not been strangled.

20 Now, in respect to Japanese competition generally I do not propose to go into that matter except to deal with it as it is, and when we deal with it as it is I submit that the evidence before this Commission indicates that to the present time, at any rate, the trade has been unable to show that there is competition from Japan that seriously menaces the output of the mills. A very cheap type of rayon is being imported and sold which is not comparable in quality to any of the rayon that is manufactured here. Montreal Cottons had a variety called Ming Toy, which they had

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THE CHINESE: I don't see your reference on

page 31.

MR. WATSON: It is at the bottom of the page.

THE CHINESE: Yes; the reference to "company"

there means the Chinese Factory?

MR. WATSON: Yes, my friend. So that the position

that we arrive at at the end of 1933 fortunately is

that the wages have been increased, and increased on

account of the greater volume of business done by the

companies, and also we have the matter that my friend

Mr. Baumgard deals with, and that was what occurred

at Montgomery last fall where the workers were asked

to come back, going out at seven and asked to come

back at twelve, I think it is, on account of the truck

in getting the orders out. So that again altogether

from the situation created there among the workers

it is an indication that at least the business has

not been strangled.

Now, in respect to Japanese competition generally

I do not propose to go into that matter except to

deal with it as it is, and when we deal with it as

it is I think that the situation before the Japanese

indicates that to the present time, at any rate, the

trade has been unable to show that there is competition

from Japan that would be a serious threat to the

trade. A few years ago it was in fact a serious

and this kind of a situation is likely to be

of the type that is mentioned here.

It is a very serious situation and it is

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ceased to manufacture according to their own statement last October, I think it was, and after all is said and done it is only one line.

5 Then there is the evidence of the buyers that were called from the large stores. They gave evidence, and although you might go through, as my friend has done, and meticulously gather this theory and that theory from bits of evidence, the fact remains that these buyers were not buying Japanese goods in place of goods they had been buying from these mills. They were handling these cheap rayons in a small degree. Now, the imports of rayon from Japan are of two types; one is plain taffeta and the other is brocaded taffeta. We have all these buyers from the big stores saying that brocaded taffeta is not made in Canada, and that "we do not buy it from any Canadian firms; we are not able to buy it from any Canadian firms". Mr. Gordon brought in quite a substantial number of invoices showing that 10 Montreal Cottons invoiced out brocaded taffeta to this company and that company, smaller places throughout Canada, but surely it cannot be contended that if they are making brocaded taffeta in such a substantial way that competition in brocaded taffeta from Japan is going to ruin their business, or have any very harmful effect on their business, that they would not have been making it and selling it to the buyers that were called. We called Mr. Switzer from the T. Eaton Company, Mr. Fletcher from the Robert Simpson Company, both from 15 Toronto; Mr. Surphlis from the T. Eaton Company, Montreal, Mr. Farquhar from Henry Morgan, Mr. Mattinson from



ceased to manufacture according to their own statement  
last October, I think it was, and after all is said  
and done it is only one line.

When there is the evidence of the buyers that were  
collected from the large stores. They gave evidence,  
although you might go through, as my friend has done,  
from bits of evidence, the fact remains that these  
buyers were not buying Japanese goods in place of goods  
they had been buying from these mills. They were

imports of rayon from Japan one of two types; one is  
plain tafeta and the other is decorated tafeta. We  
have all these buyers from the big stores saying that  
decorated tafeta is not made in Canada, and that we

do not buy it from any Canadian firm; we are not able  
to buy it from any Canadian firm. Mr. Gordon brought  
in quite a substantial number of invoices showing that  
Canadian cottons invoiced out decorated tafeta to this

country, but surely it cannot be contended that it is  
one making decorated tafeta in such a substantial way  
that competition in decorated tafeta from Japan is

going to ruin their business, or have any very harmful  
effect on their business, that they would not have been  
able to sell it in the market that was before them,  
if they had not been buying it from Japan, and that

the fact that they are buying it from Japan, and that  
they are not buying it from Canada, is not a sufficient  
proof that they are not buying it from Canada, and that

Greenshields and Mr. Doner from Robert Simpson Company, Montreal, and I stand corrected if I am wrong on this, but my recollection is everyone of these men said they did not know of brocaded taffeta being made in Canada. So to whatever degree they make it at Montreal Cottons they are not losing any business on sales of brocaded taffeta to these very large and representative buyers in the Dominion.

Now, test it another way, and first we have the purchases of yarn, the increase in volume of purchases of yarn from January to August. Then, we can test it by deliveries. Exhibit number 129 shows that the Dominion Textile Company, Montreal Cottons Company and the Canadian Cottons Limited altogether delivered 520,333 yards of artificial silk fabrics in the month of January, 1935 as against 713,418 yards in January, 1936. Now, these were deliveries that were actually being made by these companies at the time they are representing that orders were of such doubtful validity on their books that the Dominion Textile Company had to close a mill and the Canadian Cottons were threatening to close a mill. In the month of February, 1935 they delivered 710,988 yards as against 983,898 yards in the same month of 1936 so that they are up 273,000 yards in that month, the three companies, and that is goods that is actually going out, shipping out. Those are deliveries.

Now, take Canadian Celanese, for instance. There is single the largest manufacturer of artificial silk fabrics in the Dominion of Canada. They manufacture acetate fabrics;





they are not rayon viscose--

THE COMMISSIONER: They are not what?

MR. McRUER: They are not viscose fabrics, rayon.

There is a dispute about how it ought to be used so  
5 we better stick to acetate and viscose. The fabrics  
imported from Japan are viscose, but if they were coming  
into the artificial silk field one would think it would  
materially affect the business of Canadian Celanese  
Limited.

10 THE COMMISSIONER: Do I understand this that all these  
articles, that is, silk importations from Japan were  
viscose?

MR. McRUER: Yes, I think that is correct, is it not?

15 MR. HOOPER: There is only one piece of Bemberg I  
know of.

MR. McRUER: There is one piece of Bemberg that Mr.  
Hooper knows of.

THE COMMISSIONER: What is that?

20 MR. McRUER: It is another type still. I don't know  
that we need to worry about it. We haven't heard much  
about it.

Well, Canadian Celanese Company have not complained  
before this Commission of any Japanese competition, and  
25 at page 37 I give their deliveries. In January, 1935  
they delivered 1,391,000 yards as against 1,637,000  
yards in the month of January, 1936, or up well over  
260,000 yards. In the month of February, 1935, they  
delivered 1,212,000 as against 1,337,000, in February,  
30 1936, or up 125,000 yards in the month of February, 1936.  
I take these two months particularly because they were



they are not rayon viscose--

THE COMMISSIONER: They are not what?

MR. McNEIL: They are not viscose fabrics, rayon.

There is a dispute about how it ought to be used so

we better stick to acetate and viscose. The fabrics

imported from Japan are viscose, but if they were con

into the artificial silk field one would think it wou

materially affect the business of Canadian Celanese

Limited.

THE COMMISSIONER: I understand this that all th

articles, that is, silk importations from Japan were

viscose?

MR. McNEIL: Yes, I think that is correct, is it n

MR. McNEIL: There is only one place of Hamburg I

know of.

MR. McNEIL: There is one place of Hamburg that is

the only one.

THE COMMISSIONER: That is right.

MR. McNEIL: It is another type still. I don't kno

that we need to worry about it. I haven't heard m

about it.

Well, Canadian Celanese Company have not complained

before this Commission of any Japanese competition, a

at page 37 I give their deliveries. In January, 1933

they delivered 1,321,000 yards as against 1,637,000

yards in the month of January, 1932; in February

280,000 yards. In the month of February, 1932, they

delivered 1,212,000 as against 1,327,000, in February

1932, in the month of March, 1932, they

delivered 1,212,000 as against 1,327,000, in February

1932, in the month of March, 1932, they

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the months when the demonstration was taking place, and it was on the 20th of February, 1936, I think -- no, it may have been a little later when we sat in Sherbrooke and an application was made to --

5 MR. BLAIR GORDON: Started in Sherbrooke on March 17th.

MR. McRUER: March 17th. They had the experience of those two months behind them when an application was made to the Commission that we should have a special hearing on the acute situation that had arisen in  
10 regard to Japanese competition, and an immediate interim report in order that some action might be taken to save the industry from annihilation.

THE COMMISSIONER: You say the Canadian Celanese Company has never complained of Japanese competition?  
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MR. McRUER: No, we have not had a breath of a complaint.

THE COMMISSIONER: They have appeared before the Commission?

MR. McRUER: Yes, we had them in Montreal. We had  
20 all their officers there.

THE COMMISSIONER: I mean by counsel?

MR. McRUER: Mr. Forsyth appeared on their behalf, and we went into all their business and how they are getting along, and I will have more to say about that.  
25 They are not going to be blown over with a breath of wind yet. Then, to take the same exhibit, page 38 --

"The exhibit shows that the makers of artificial silk fabrics listed thereon and who form a large  
30 part of the manufacturers of artificial silk fabrics in the Dominion" -- I think one can say it shows



the month when the demonstration was taking place, it was on the 20th of February, 1935, I think -- no, may have been a little later when we sat in the room and an application was made to --

THE CHAIRMAN: I am not sure if you are referring to the same thing or not. I am not sure if you are referring to the same thing or not.

of these two months point them then as being the time made to the Commission that we should have a special hearing on the acute situation that had arisen in regard to Japanese competition, and an immediate interim report in order that some action might be taken to save the industry from annihilation.

THE CHAIRMAN: You say the Canadian Japanese Company has never complained of Japanese competition? MR. MONTGOMERY: No, we have not had a breath of a

complaint.

THE CHAIRMAN: They have appeared before the Commission? MR. MONTGOMERY: Yes, we had them in Montreal. We had all their officers there.

THE CHAIRMAN: I mean by yourself? MR. MONTGOMERY: Mr. Thompson appeared on their behalf, and we went into all their business and how they are getting along, and I will have more to say about that. They are not going to be blown over with a breath of wind.

THE CHAIRMAN: The exhibit shows that the nature of criticism is given to the Commission and that you have not at the same time at all times with them in the past.

fairly the trade in the Dominion --

"delivered 800,262 more yards in the first two months of the year 1936 than they did in the first two months of the year 1935".

5 So that was the situation then. We have their continued purchases of yarn up till August, and on the whole it is an increase. You cannot take any one month and say that it is up here and down there. You have got to go over a few months because sometimes the  
10 demand in one season will no doubt vary from one month to another.

(Page 13965 follows)

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...the facts in the opinion --

"delivered 200,282 more yards in the first two  
of the year 1936 than they did in the first two  
of the year 1935".

So that was the situation then. We have their co-  
ordinated purchases of yarn up till August, and on the  
whole it is an increase. You cannot take any one  
month and say it is less than last year. We  
have got to go over a few months because sometimes  
demand in one season will no longer vary from one month  
to another.

...the facts in the opinion --

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Then take Mr. Johnson. Mr. Johnson, I think, to those of us who saw him, seemed a very shrewd and able business man. He was managing director of Courtaulds, England, and a director of Courtaulds in Canada, and needless to say a man who had been the managing director and a director of such a very large firm as the parent company of Courtaulds we could take as being a pretty responsible sort of executive. He was asked about Japanese competition, and I asked him this question:

Q. Are you finding any competition from Japan in the Canadian market? A. Not in the Canadian market at all that I know of.

Mr. Jones: There is practically no Japanese importations at all."

Now Mr. Jones was the Secretary Treasurer of Courtaulds. Then the witness went on to say:

"The Witness: Why I say that, if I have asked for anything to demonstrate it, they are never able to show me anything."

MR. HEWARD: Was he talking there of yarn?

MR. McRUER: Please, if counsel will only be patient.

MR. DIXON: I was just going to point out to your lordship that we are talking here of yarn.

MR. McRUER: I was just going to say that. Upon my word I do not know why counsel cannot wait until I finish my sentence. I can get along much better if they will.



Then take Mr. Johnson. Mr. Johnson, I think,  
to those of us who saw him, seemed a very shrewd and  
able business man. He was managing director of  
Gairtair, and a director of Gairtair  
in Canada, and needless to say a man who had been the  
managing director and a director of such a very  
large firm as the parent company of Gairtair we  
could take as being a pretty responsible sort of  
executive. He was asked about Japanese competition,  
and I asked him this question:  
"Q. Are you finding any competition from  
Japan in the Canadian market?"  
A. Not  
in the Canadian market at all that I know of.  
Mr. Jones: There is practically no  
Japanese importation at all."  
Now Mr. Jones was the Secretary Treasurer of Gair-  
tair. Then the witness went on to say:  
"The witness: Why I say that, if I have  
asked for anything to demonstrate it, they  
are never able to show me anything."  
Mr. McNamee: Was he talking about the other  
Mr. McNamee: Please, in casual will  
only be patient.  
MR. BROWN: I was just going to point out  
to your honourable court that the witness was not  
asked for anything to demonstrate it, they  
are never able to show me anything."  
MR. BROWN: I was just going to point out  
to your honourable court that the witness was not  
asked for anything to demonstrate it, they  
are never able to show me anything."

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13966

5 The Courtauld Company are manufacturers of yarn,  
but they would be the people who would feel the  
impact of Japanese competition in their reduced yarn  
sales if the Japanese fabric was being introduced  
here, and they would have been the first, I should  
think, being the sole manufacturers of viscose yarns  
to come here and say: We are the people who feel  
the shock first. Because this company and that com-  
pany may be manufacturing different kinds of fabric,  
10 and the Japanese fabric may not affect their parti-  
cular fabrics. We may go to Binz, who had no com-  
plaint about Japanese competition; it may be that his  
fabric was not affected. But if there was Japanese  
competition in Canada we would have thought that  
15 Courtaulds, who manufacture all the yarns for all the  
makers of rayon in Canada, would have been the first to  
complain.

20 Besides that, there appears to have been no yarn  
come in whatever, no importation of rayon yarn from  
Japan. Mr. Hooper just tells me the importations were  
a few hundred pounds. Mr. Jones in his evidence  
said, "There is practically no Japanese importations  
at all." So that when we face this thing as a fact  
25 and not as propaganda, we cannot find any injury done  
to the Canadian trade. I have no desire to injure  
legitimate Canadian trade, but I have a desire to  
try to get down to the facts as they exist, and to  
place them as they exist.

30 In respect to cottons there was a feeble attempt



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The Continental Company are manufacturers of paper  
but they would be the people who would feel the  
impact of Japanese competition in their industry  
sales in the Japanese market was being threatened  
here, and they would have been the first, I should  
think, to get the sole manufacturers or license  
to come here and say: We are the people who feel  
the shock first. Because this company and that com-  
pany may be manufacturing different kinds of paper,  
and the Japanese market may not affect their parti-  
cular product. We may go to him, who had no com-  
plaint about Japanese competition; it may be that his  
product was more needed. But if there was Japanese  
competition in Canada we would have thought that  
companies, who manufacture all the paper for all the  
users of paper in Canada, would have been the first to  
complain.  
Further that, there appears to have been no paper  
come in the form, no importation of paper from  
Japan. Mr. Hooper just tells me the importations were  
a few hundred pounds. Mr. Jones in his evidence  
said, "There is practically no Japanese importations  
at all." So that when we face this thing as a fact  
and not as propaganda, we cannot find any injury done  
to the Canadian paper industry.  
I estimate Canadian trade, but I have a desire to  
set down to the facts as they exist, and to  
show that we are not in a position to be

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to suggest that there was some competition from Japan in cottons. But again in regard to that Mr. Hooper filed statements that showed what the im-  
portations were, and when you took out of the state-  
ments the goods that were of a class or kind not  
manufactured in Canada, the importations became  
practically negligible.

Then again, if we compare the protection which the Canadian cotton manufacturer has as compared with the American cotton manufacturer, and I have shown this comparison at page 39 of my brief, we find that up to June, 1936, the protection enjoyed by the Canadian cotton manufacturer was 85 per cent figured on an ad valorem basis, as against the American rate of 27.7 per cent, on an ad valorem basis. Exhibit No. 526 has these examples worked out, and since June when the American rate was raised, and there were importations into America at that time, the rate was 39½ per cent.

I am not prepared in any way, in dealing with a tariff matter, to deal with it as if Canadian industry has any royal prerogative to carry on without competition either from abroad or in Canada. We have heard a lot about competition. Why should they not have some competition from Japan? If an article is being imported that will sell to a poor man at a lower price than the Canadian article so that if he buys it he can clothe his wife and family, even though it be an inferior article, why



to suggest that there was some competition in  
Japan in cotton. But again in regard to that  
Mr. Brown filed statement that showed that the  
portation was, and when you look out of the state-  
ments the goods that were of a class or kind not  
manufactured in Canada, the importation became  
practically negligible.  
Then again, if we compare the protection which  
the Canadian cotton manufacturer has as compared with  
the American cotton manufacturer, and I have shown  
this comparison at page 89 of my brief, we find that  
up to June, 1905, the protection enjoyed by the  
Canadian cotton manufacturer was 33 per cent. figured  
on an ad valorem basis, as against the American rate  
of 27.7 per cent, on an ad valorem basis. Exhibit  
No. 10 has these examples worked out, and since that  
when the American rate was raised, and there were  
importations into America at that time, the rate  
was 39 1/2 per cent.  
I am not prepared in any way, in dealing  
with a tariff matter, to deal with it as if Cana-  
dian industry has any royal prerogative to carry on  
without competition either from abroad or in Canada.  
We have heard a lot about competition. Why should  
they not have some competition from Japan? If  
an article is being imported that will sell to a  
poor man at a lower price than the Canadian article  
he will be apt to be able to buy it.

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should not the industry here get some competition from Japan, and the poor man get the benefit of it, providing that an industry in this country is not being destroyed, as was suggested last January ?

5 I wish now to deal in a measure with the facts which have been submitted in connection with this matter, and then I am through with Japanese competition. The factum submitted by the Dominion Textile Company deals with both matters, the closing of the Sherbrooke  
10 plant and Japanese competition.

THE COMMISSIONER: What page ?

MR. McRUER: I am commencing at page 64, my lord, Division V of the Dominion Textile Company's brief.

15 THE COMMISSIONER: With the tariff situation in regard to Japanese goods ?

MR. HEWARD: If you are going to deal with that I should like to say that there is a slight error there.

20 MR. McRUER: I was going to say that if I point out an error I am quite sure that it was unintentional. I am glad to hear that other people make errors.

MR. HEWARD: We are not infallible. I have  
25 said there that prior to January 31, 1936, the fixed exchange value of the yen was 49.85 cents. As a matter of fact, that is not correct. Immediately prior to January 1, 1936, the proclaimed value of the yen was 41.51 cents.

30 THE COMMISSIONER: You say immediately prior



should not the industry have not done something  
from Japan, and the poor man get the benefit of it,  
providing that an industry in this country is not being  
destroyed, as was suggested last January?  
I wish now to deal in a measure with the two-  
years which have been submitted in connection with this  
matter, and then I am through with Japanese competition  
the factors submitted by the Dominion Textile Company  
with both matters, the closing of the American  
market and Japanese competition.  
THE CHAIRMAN: What page?  
MR. HARRIS: I am mentioning at page 64, my lord,  
Division V of the Dominion Textile Company's brief.  
THE CHAIRMAN: With the tariff question  
in regard to Japanese goods?  
MR. HARRIS: If you are going to deal with  
that I should like to say that there is a slight error  
there.  
MR. HARRIS: I was going to say in it I  
point out an error I am quite sure that it was unmis-  
taken. I am glad to hear that other people make  
mistakes.  
MR. HARRIS: We are not infallible. I have  
said there that prior to January 31, 1936, the fixed  
exchange value of the yen was 49.85 cents. As a  
matter of fact, that is not correct. Immediately prior  
to January 1, 1936, the specified value of the yen  
was 41.51 cents.  
THE CHAIRMAN: You say immediately prior

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to -- ?

MR. HEWARD: That was from July 20 to December 31, 1935. That was the proclaimed value of the yen.

THE COMMISSIONER: What was it again ?

MR. HEWARD: 41.51 cents.

MR. McRUER: Did you work out your example on the basis of 49.85 cents ?

MR. HEWARD: Yes, the examples are worked on the 49.85 cents basis because it will be remembered that when the 41.51 cents was in force the trade war was on, when there were no importations; the 33-1/3 per cent surtax was in force, and therefore in working out the example in which I show \$2.10 per pound as the laid down minimum price at which Japanese goods could reach Canada before the change in the tariff, I used the 49.85 cents. It does not make any difference, as a matter of fact, in theory anyway, because there was a fixed valuation of \$1.25. But I wanted to make clear that I had made a misstatement of fact in regard to the proclaimed value of the yen.

THE COMMISSIONER: When was the value of 49.85 cents in force ?

MR. HEWARD: From July 20 to December 31, 1935, it was 41.51.

MR. KELLOCK: My friend Mr. McRuier has the same mistake on pages 5 and 13 of his brief.

MR. McRUER: Great minds work alike. In respect to the illustration that my friend Mr. Heward gives at page 64 of his brief, that too is not an



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to -- 7

MR. BRYDIE: That was from July 30 to December 31, 1935. That was the prescribed value of the yen.  
THE COMMISSIONER: What was it again?

MR. BRYDIE: 41.51 cents.

MR. MONAGHAN: Did you work out your example

on the basis of 49.85 cents?

MR. BRYDIE: Yes, the example was worked on the 49.85 cents basis because it will be remembered that when the 41.51 cents was in force the trade was on, when there was no importation; the 35-1/2 per cent tariff was in force, and therefore in working out the example in which I show \$2.10 per pound as laid down minimum price at which Japanese goods could reach Canada before the change in the tariff, I used the 49.85 cents. It does not make any difference, as a matter of fact, in theory anyway, because there was a fixed valuation of \$1.25. But I wanted to make clear that I had made a misstatement of fact in regard to the prescribed value of the yen.

THE COMMISSIONER: When was the value of 49.85

MR. BRYDIE: From July 30 to December 31, 1935.

MR. BRYDIE: My friend Mr. McGee has the

some mistake on pages 5 and 12 or his printer.

MR. MONAGHAN: Great minds work alike.

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illustration that shows the tax that would be imposed at the time the negotiations were entered into with Japan in November or December, 1935, because the surtax was a fact. The surtax was on; and my friend has disregarded that fact in his computation.

MR. HEWARD: You are quite right. It makes it better from our angle.

MR. McRUER: It is certainly better from your angle in one sense because the tariff wall was so high that nothing could get over it.

MR. HEWARD: At the time when there were importations I think my figure is correct.

MR. McRUER: Oh yes, if you call them importations, but I do not think they can seriously be called that.

THE COMMISSIONER: Reference is made to the surtax on page 65 ?

MR. McRUER: Yes. Again, my friend's statement at the foot of page 64 is not absolutely correct because if the value of the article was less than 62½ cents, as it was in December 1935, then this calculation is not right. It would be considerably lower than \$2.10.

MR. HEWARD: No, because the \$1.25 went on.

MR. McRUER: No, the \$1.25 was on. If the value of the article was fixed at \$1.25, then the maximum duty they could collect was 62½ cents. But those are pretty much details on a thing that involves matters on a very much broader scale.



illustration just shows the fact that would be in-  
posed at the time the negotiations were entered into  
with regard to November or December, 1948, because the  
sale was a profit. The seller was on; and my friend  
was illustrating that fact in his explanation.

MR. BRIDGES: You are quite right. It makes it  
clear to you and myself.

MR. BRIDGES: It is certainly better from your  
angle in one sense because the selling price was so  
high that nothing could be set over it.

MR. BRIDGES: I think my friend is correct.

MR. BRIDGES: Oh yes, if you sell them immor-  
tals, but I do not think they can actually be  
called that.

MR. BRIDGES: Reference is made to the  
section on page 33?

MR. BRIDGES: Yes. Again, my friend's state-  
ment of the fact of page 31 is not entirely

correct because if the value of the article was less  
than 62 cents, as it was in December 1948, then  
this calculation is not right. It would be a great-  
ly lower than \$2.10.

MR. BRIDGES: No, because the \$1.25 went on.

MR. BRIDGES: The \$1.25 was on the  
value of the article was fixed at \$1.25, then the  
maximum duty they could collect was 62 cents.  
The \$1.25 was a very small amount.

When we come to the example that is worked out on page 66 of the Dominion Textile brief, something of the same comment can be made. Exhibits 125 and 126 which we have filed accurately show the situation, I think. But my friend has worked out another calculation there, working out what the purchase price would be, \$2.10, but if the purchase price had been less than 62½ cents the duty would have been \$1.47½, and at a purchase price of 25 cents, which it was about that time, that would bring it to \$1.72½ instead of \$2.10. So I suggest to your lordship that it would be fair to all concerned if exhibits Nos. 125 and 126 were taken as the examples of the situation. They are worked out by Mr. Hooper. These other calculations have been worked out on another basis, and assuming, I think, that the goods would be selling for something more than 62½ cents.

THE COMMISSIONER: What are the exhibits you refer to?

MR. MORUER: Exhibits Nos. 125 and 126, my lord. Then at page 68 of the Dominion Textile brief the importations for the first ten months of 1936 are given at 291,085 pounds as against 38,689 pounds in the corresponding period of 1935. My friend Mr. Kellock puts it that the increase was some six hundred odd per cent. But there is no use talking of percentages in this matter. If the importations had been one yard or one pound an increase in importations of a thousand per cent would look terrible in percentages



When we come to the example that is worked out  
on page 68 of the Dominion Textile price, something  
of the same comment can be made. Exhibit 125 and  
126 which we have filed seem to show the situation.  
I think. But my friend has worked out another cal-  
culation there, working out what the purchase price  
would be, \$2.10, but if the purchase price had been  
less than 68 cents the rate would have been \$1.45.  
and at a purchase price of 25 cents, which it was  
about that time, that would bring it to \$1.15.  
instead of \$2.10. So I suggest to your lordship  
that it would be fair to all concerned if exhibits  
Nos. 125 and 126 were taken as the examples of the  
situation. They are worked out by Mr. Hooper. These  
other calculations have been worked out on another  
basis, and assuming, I think, that the goods would  
be selling for something more than 68 cents.  
THE COMMISSIONER: What are the exhibits you  
refer to?  
MR. MONTGOMERY: Exhibits Nos. 125 and 126, my  
lord. Then at page 68 of the Dominion Textile price  
the importations for the first ten months of 1935  
are given as \$1,100,000 and in 1936, \$1,200,000  
in the corresponding period of 1935. My friend has  
looked into it that the increase was some six hundred  
thousand pounds. But there is no real basis of per-  
centage in this matter. If the importations had been  
one year or one pound an increase in importations of  
thousand per cent would look terrible in percentage

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although the actual quantity imported would be small. Again we must face facts as they are, and take what the figures are. My friend Mr. Kellock puts it that the increase in importations was 625 per cent. He says at page 20 of Section G, in paragraph 82, at the foot of the page:

"Moreover it should be noted that whereas imports from Japan of rayons and mixtures have increased 625 per cent in 1936 over 1935 (Exhibit 897) Canadian mills sales of rayon increased only 2½ per cent in 1936 over 1935."

Well, to begin with, an increase of 2½ per cent in the Canadian mills' sales does not show that they are being annihilated; and secondly, the percentage increase in importations from Japan was an increase on 38,689 pounds. So when you start to deal in these percentages they do not mean an awful lot, and one has to face the facts as they are. What does 291,000 pounds of artificial silk, mostly of a very inferior type, mean in the Canadian industry? To begin with it means that it does not affect them in such a way that they have not increased their sales in Canada notwithstanding all that has been said.

Now Exhibit No. 888 shows that the production of rayon alone for six months amounted to --

THE COMMISSIONER: In Canada?

MR. McRUIR: In Canada, amounted to 16,000,000 yards. I point out to your lordship that that does not include mixtures. On the other hand, the



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although the actual quantity imported would be small  
again we must take facts as they are, and take what  
the figures are. My friend Mr. Kellogg puts it that  
the increase in importation was 625 per cent. He

"Moreover it should be noted that whereas  
imports from Japan of rayon and mixtures have  
increased 625 per cent in 1935 over 1932

(Exhibit 897) Canadian mills sales of rayon  
increased only 27 per cent in 1935 over 1932.  
Well, to begin with, an increase of 27 per cent in

the Canadian mills' sales does not show that they are  
more competitive; and finally, the percentage in-  
crease in importation from Japan was an increase on

28,689 pounds. So when you start to deal in these  
percentages they do not mean an awful lot, and one  
has to take the facts as they are. What does

231,000 pounds of artificial silk, mostly of a very  
inferior type, mean in the Canadian industry? To  
begin with it means that it does not affect with in

such a way that they have not increased their sales  
in Canada notwithstanding all that has been said.  
Now Exhibit No. 658 shows that the production of

rayon alone for six months amounted to --  
The Canadian mills. In Canada?  
No. Exhibit No. 659, showing in 1935, 1936,

1937. I want you to pay particular note that when  
the percentage is 625 per cent, it is not 625 per cent of the  
total production, but 625 per cent of the production of the

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importations do include mixtures because mixtures of rayon and other articles come under the same tariff item as pure rayon. If there is only one thread of cotton in the mixture for decorative purposes, then it comes in as rayon, and under the higher tariff schedule. So that the imports include mixtures but the production in Canada does not include mixtures.

I have figured out what this 291,000 pounds would amount to. I have figured it at 7 yards to the pound if it includes mixtures and artificial silk, and I think I am not very far out, although it may be as high as 8 yards to the pound. I reduced it to a six months' period -- they give a ten months' period here -- I reduced it to a six months' period, pro rata, and it would amount to 1,200,000 yards. Well, that does not seem to be a very serious importation at the moment. On the other hand the production in Canada gets an increase of  $2\frac{1}{2}$  per cent, and that means it would be up about 600,000 yards.

In all this my friend Mr. Kellock has devoted a large part of his brief to dealing with what Japan has done in other countries and how she has invaded the markets of other countries. We have quite a story on that, mostly read in by Mr. Dawson, consisting of articles from newspapers of one sort and another.

MR. KELLOCK: That is the wrong witness. It was not Dr. Dawson, it was Mr. Berry and Mr. Watson.

MR. McRUER: I thought Dr. Dawson had a share in it, but I may be wrong. However, I would consider





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it as reliable from one source as the other.

MR. KELLOCK: I am not suggesting that. I say that you have the name of the wrong witness, that is all.

5 MR. McRUER: At any rate, it does not make much difference who read it in because it was from articles, and I am not quarrelling as to their reliability at all, but it does demonstrate this very forcibly, that we must have a much higher dyke in  
10 this country than they have in almost any other country in the world so far as that evidence was concerned because the flood did not reach here, and it seemed, according to that evidence, to have reached other  
15 places. There are two sides to that, and just to bring the evidence on that point up to date, let me say that a good deal was said about Australia and what was done in Australia. About the time the evidence was given the Australian government had been  
20 taking some more or less drastic action in regard to Japanese competition, and they were getting into something of a trade war with Japan with respect to wool. There had been a change in that, and an article appears in the last edition to hand of the  
25 London Times, weekly edition, dated Januar. 14, 1937, which deals with the Australian situation. It is purely a matter of information, and this whole Japanese question has to be dealt with in a broad way. I do not want anyone for a moment to suggest that any  
30 government should not be alive to the question of how



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it as reliable from one source as the other.  
Mr. Brydick: I am not suggesting that. I say  
that you have the name of the wrong witness, that is  
all.  
Mr. Brydick: If any trial, it does not make  
much difference who reads it because it was then  
extracted, and I am not quarrelling on the matter.  
Slightly at all, but it does demonstrate this very  
terrible, that we must have a much lighter duty in  
this country than they have in England and other countries  
in the world as far as that evidence was concerned,  
because the flood did not come here, and it seemed  
according to that evidence, to have received other  
places. There are two sides to that, and that is  
bring the evidence on that point up to date, let me  
say that a good deal was said about Australia and  
what was done in Australia. About the time the evi-  
dence was given the Australian Government had been  
taking some sort of less drastic action in regard to  
opium consumption, and they were getting into  
something of a trouble with Japan with respect to  
opium. There had been a change in that, and on  
the whole appears in the last edition to have of the  
same thing, weekly edition, dated January 14, 1937.  
It is  
a matter of fact, and that whole  
question has to be dealt with in a proper way.  
I do not want anyone for a moment to suggest that any  
government should not be alive to the question of law

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far the economic life of Canada may be affected by the trading policies of any country, but we must remember that we have to deal with our whole economic life and not simply with the economic life of any particular individual. I do not propose to read the whole of this article but as it deals with what has happened, and brings us down to date in regard to what has happened in Australia I shall quote it in part:

"In May of last year, alarmed by the increase of Japanese imports of artificial silk and cotton piece goods, which had risen from 44,500,000 square yards in 1932 to 153,000,000 in 1935 --

That makes us look a little small here:

-- the federal government imposed additional duties on these goods, which were considered, in Japan, to be prohibitive, and which were intended to prevent her pushing the United Kingdom and the native Australian manufacturer out of the market. Japan retaliated with an unofficial boycott on Australian wool (as effective as if it had been official) and went temporarily to South Africa and New Zealand for her supplies. Fortunately the market in this commodity was a rising one; and Australian prices were able to stand the temporary strain of losing a buyer who had taken 25 per cent of the total clip in 1935, and was expected to take 30 per cent in 1936. But since the "war"



for the economic life of Canada may be affected by  
 the trading policies of any country, but we must be  
 aware that we have to deal with our own economic  
 situation. I do not propose to deal with the  
 economic life of this country but as it stands with what we  
 have, and bring us down to date in regard to  
 what has happened in the past. I shall make it in

"In May of last year, shortly after the

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increase of Japanese imports of artificial  
 silk and cotton piece goods, which had risen  
 from 44,500,000 square yards in 1935 to  
 108,000,000 in 1936 --

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that means we have a little more than

-- the Federal Government imposed additional  
 duties on these goods, which were a hindrance  
 in Japan, to be prohibitive, and which were  
 intended to prevent the export of the goods  
 from the native market. In 1937, the  
 out of the market. Japan maintained with us  
 a similar position in 1937, 1938, and 1939.

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effective as it had been earlier) and was  
 temporarily to South Africa and New Zealand  
 for the purpose. Consequently the market in  
 this commodity was a rising one; and the  
 prices were able to stand the temporary strain  
 of having a buyer who had taken 50 per cent of  
 total clip in 1935, and was expected to take  
 50 per cent in 1936. The price of wool

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5 as is the custom of wars, benefited neither  
belligerent and led to reprisals against other  
classes of exports, a new agreement was nego-  
tiated and announced over Christmas; this  
reduced the duties on Japanese cotton and  
artificial silk, while in return Japan agreed  
to import at least 800,000 bales of Australian  
wool in the next eighteen months. But the new  
and significant feature of the agreement was  
10 the restriction of Japanese imports to a  
yearly quota of 120,000,000 square yards -- "  
That was the maximum quota they put on Japanese im-  
portations. It goes on:

15 " 120,000,000 square yards, 30,000,000 fewer  
than had been imported in 1935.

Prima facie the gain for Lancashire in  
comparison with 1935, 30,000,000 square  
yards, is not overwhelming, and a report  
20 issued by the Department of Overseas Trade  
emphasizes cheerlessly, the fact that the  
share of the United Kingdom in Australia's  
imports is declining. But this decline is  
largely due to the development of native  
25 secondary industries and the ability of U.S.A.  
manufacturers to build better cars for  
Austrian roads, factors which have nothing  
to do with Japan. Without a quota Japanese  
imports would have continued to rise above  
30 the 1935 figure, and Australia has given an  
object lesson in the difficult art of coping



as is the custom of water, permitted neither  
belligerent and led to hostilities against other  
classes of exports, a new agreement was nego-  
tiated and announced over this country; this  
refused the duties on Japanese cotton and  
artificial silk, while in return Japan agreed  
to import at least 800,000 pieces of Australian  
wool in the next eighteen months. But the new  
and significant feature of the agreement was  
the restriction of Japanese imports to a  
yearly quota of 130,000,000 square yards --  
That was the maximum quota they put on Japanese im-  
portations. It goes on:  
"130,000,000 square yards, 30,000,000 fewer  
than had been imported in 1935.  
Prime factor the rate for Japanese in  
comparison with 1935, 30,000,000 square  
yards, is not overwhelming, and a report  
issued by the Department of Overseas Trade  
expressed cheerfully the fact that the  
share on the United Kingdom in Australia's  
imports is 6.5 million. But this decline is  
largely due to the development of native  
secondary industries and the ability of A.S.T.  
manufacturers to bring better care for  
Australian goods, reasons which have nothing  
to do with Japan. Without a quota Japanese  
imports would have continued to rise above  
the 1935 figure, and Australia has given on  
average 100,000,000 square yards of wool

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with cheap Japanese goods. Tariffs have shown an unfortunate tendency to be either ineffective or prohibitive. Only a doctrinaire free-trader would wish imperial markets to be flooded, and only the most bellicose wish to have Japan treated as an economic parish because she can make and sell goods more cheaply than her rivals. Nor could Australia reasonably persist in the use of blunt instruments on a powerful neighbour, who is her second-best customer."

I submit that that article shows a good deal of common sense in that throughout this country we have heard a good deal of talk as though Japan ought to be treated as a sort of economic parish with whom we should not deal at all, have no truck or trade with her whatsoever; but there are benefits to be had from supplying cheap goods to people who at this time have not got much wherewith to pay for them.

Page 13985 follows



1897

with cheap Japanese goods. There is a  
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instructive or prohibitive. Only a doc-  
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bellicose wish to have Japan treated as an  
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the use of plant instruments on a powerful  
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common sense in that throughout this country we  
ought to be treated as a sort of economic parish  
or trade with her whatever; but there are benefits  
to be had from supplying cheap goods to people who  
at this time have not got much wherewith to pay for  
them.

JAMES LAMONT

There is only one other observation I desire to make in regard to the Dominion Textile Company's Brief and that is the point they seek to make in regard to the need of the shut-down, At page 75 it is stated:

"The duration of the shutdown, namely, from the close of work on January 17th to the resumption of work on January 29th, and the number of working days and hours represented thereby (namely, five days of ten hours each and one day of eight hours, or fifty-eight working hours in all) have already been dealt with in Section 2 above and it is not necessary to discuss that feature further.

What must be clearly borne in mind, however, is that the shutdown was not and was not intended to be a permanent shutdown. From the outset it was intended to be a suspension of operations in order to allow the management to ascertain where they stood."

That is what is said in the Brief and rather was the course of the evidence taken by Mr. Gordon, but when we read the Notice that was published to the employees and what was said to the Montreal Gazette it looks like as though the intention was surely changed. It does not say that operations are suspended in the mill. The notice read- at page 20 of my Brief it is copied:



18205

There is only one other observation I desire to  
make in regard to the Dominion Textile Company's  
Brief and that is the point they seek to make in regard  
to the need of the shut-down, at page 75 it is  
stated:

"The question of the shut-down, namely, from  
the close of work on January 17th to the resumption  
of work on January 18th, and the number  
of working days and hours represented thereby  
(namely, five days of ten hours each and one day  
of eight hours, or fifty-eight working hours in  
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That is what is said in the Brief and rather was the  
course of the evidence taken by Mr. Gordon, but when  
we read the Notice that was published to the employees  
and what was said to the Montreal Gazette it looks  
like as though the intention was surely changed.

It may not say that operations are suspended in the  
Notice itself - at page 20 of the Brief.

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"Dominion Textile Company Limited Sherbrooke Branch - Rayon Division. This Mill will close down on Friday, January 17th and will remain closed indefinitely."

That is what they said to their employees. That was said to Mr. Kershaw by Mr. Gordon himself was that you will be receiving instructions from Mr.

Daniels to close down operations in the rayon division Friday night of January 17th as this action is necessary in view of the threatened invasion of the rayon market in Canada by Japanese goods at the present time.

We have made representations in Ottawa in the proper quarters but, until some action is taken by the Government to stabilize the situation, it is quite impossible for us to book any further orders or to continue production for stock purposes.

What is stated there, until the Government does something we are closed down, we are out of business, and to the Montreal Gazette that they hope to re-open when we can see the possibility of manufacturing goods which can be sold.

Well, how the atmosphere cleared in two or three days Mr. Gordon suggests one thing and that was that the Customs Department had published a letter dated the 10th of January which relieved the situation a bit in regard to the appraisal of Japanese goods, but that letter is dated 10th of January. I doubt very much if the Customs Department would have a letter



Branch - Japan division. This will all close

down on Friday, January 17th and will remain

closed indefinitely."

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Went to close down operations in the Japan division

Friday night of January 17th as this action is neces-

sary in view of the threatened invasion of the Japan

market in Canada by Japanese forces at the present time

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Government to stabilize the situation, it is quite

impossible for us to book any further orders or to

continue production for stock purposes.

That is stated there, until the Government does

something we are closed down, we are out of business,

and to the Montreal Gazette that they hope to re-open

when we can see the possibility of manufacturing goods

which can be sold.

tell, now the atmosphere cleared in two or three

days Mr. Gordon suggests one thing and then was that

the Customs Department had published a letter dated

last of January which relieved the situation

a bit in regard to the shipment of Japanese goods,

that letter is dated 14th of January. I doubt

that if the Customs Department would have a letter

13987

lying around waiting to send it out, and it was stated  
in Mr. Marx' report that this had been discussed  
when they met in Ottawa. Mr. Gordon says he does  
not recollect having seen it. Mr. Hooper said it  
was there on the table when they were discussing it.  
That is my recollection of his evidence. However,  
that letter went out making a change in the method  
of appraisal, and then that letter was withdrawn, yet  
Mr. Gordon did not close his mill again after the  
letter was withdrawn. He did not close his mill  
when goods started actually to come in to be sold.  
He has not closed it yet. So that it does not appear  
that the reasons for closing the mill were quite as  
indicated in the Brief.

THE COMMISSIONER: Have you there the Exhibit number  
of that letter? (Ex. 142)

MR. McRUER: Yes, my lord. It is dated the 10th  
of January, 1936, Mr. Whiteley.

Now, that is all I have to say in respect to Japanese  
competition and in respect to the closing of the  
Sherbrooke mill.

What I have to say now in regard to the broader items  
that were committed to the Commission in respect to  
the matters dealing with the Textile Industry in Canada.

Before I leave that, Mr. Hooper has just drawn  
my attention to the fact that yesterday your lordship  
asked me to have worked out the duty that would be  
payable on a pound of goods - first on the basis without



1944

It was found that the letter was not  
in the letter box at the time it was  
sent and it was found that the letter

Mr. Gordon says he does

not recollect having seen it. Mr. Hooper said it

was there on the table when they were discussing it.

That is my recollection of his evidence. However,

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letter was withdrawn. He did not close his mill

when Goods started actually to come in to be sold.

He has not closed it yet. So that it does not appear

that the reasons for closing the mill were quite as

indicated in the brief.

The Commission asks: Have you these two exhibits numbered

of that letter?

Mr. Hooper: Yes, my lord. It is dated the 10th

of January, 1936, Mr. Wintley.

Now, that is all I have to say in respect to the

competition and in respect to the closing of the

Commission asks:

That I have to say now in regard to the broader issue

that were committed to the Commission in respect to

the matters dealing with the Pacific Railway in Canada

before I leave that, Mr. Hooper has just drawn

up attention to the fact that the Commission has

asked me to state whether or not the Commission

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the surtax. Second, on the basis with the surtax and third, on the present-day basis.

THE COMMISSIONER: The example given in your factum is with the surtax?

5 MR. McRUER: No, without the surtax.  $1.53\frac{1}{2}$  without the surtax.

THE COMMISSIONER: What page is it on?

10 MR. McRUER: Page 9. Without the surtax  $1.53\frac{1}{2}$ , with the surtax  $1.97$ . Now, those were in the days of the fixed valuation.

MR. HEWARD:  $1.53\frac{1}{2}$ ?

THE COMMISSIONER:  $1.53\frac{1}{2}$  is the figure given in the Brief.

15 MR. McRUER: Yes, my lord.

THE COMMISSIONER: That is, without the surtax?

MR. McRUER: Yes, my lord.

THE COMMISSIONER: And with the surtax  $1.97$ ?

20 MR. McRUER: Yes, my lord.

THE COMMISSIONER: And the present day?

MR. McRUER: 63 and 8/10ths. That is all on the value of a pound of fabric at 25 cents. The last one is on the value of 24, Mr. Hooper says.

25 THE COMMISSIONER: That is the present day one?

MR. McRUER: Yes.

THE COMMISSIONER: Any reason for putting 24 cents?

MR. McRUER: No, only it was actual importations at that price, Mr. Hooper?

MR. HOOPER: Yes, the price had come down.



two surtax. Second, on the basis with the surtax  
and third, on the present-day basis.

THE COMMISSIONER: The example given in your report  
is with the surtax?

MR. MORRIS: No, without the surtax. I.53% without  
the surtax.

THE COMMISSIONER: What page is it on?

MR. MORRIS: Page 9. Without the surtax 1.53%.

With the surtax 1.97%. Now, those were in the days  
of the fixed valuation.

MR. MORRIS: I beg?

THE COMMISSIONER: 1.97% is the figure given in the  
Bill.

MR. MORRIS: Yes, my lord.

THE COMMISSIONER: That is, without the surtax?

MR. MORRIS: Yes, my lord.

THE COMMISSIONER: And with the surtax 1.97%?

MR. MORRIS: Yes, my lord.

MR. MORRIS: 93 and 9/10th. That is all on the

value of a pound of fabric at 20 cents. The last

one is on the value of 24, Mr. Ferguson says.

THE COMMISSIONER: That is the present day one?

MR. MORRIS: Yes.

THE COMMISSIONER: Any reason for putting 24 cents?

MR. MORRIS: Yes, my lord.

MR. MORRIS: Yes, my lord.

MR. MORRIS: Yes, my lord.

MR. KELLOCK: If the 24 cents is actual importation, it ought to be pointed out that the 25 cents in the first six months of 1935 was not actual importations. It is a hypothetical case, because Mr. Hooper's evidence is that all importations coming in at that time had a value of not less than 74 cents.

MR. McRUER: It was the obtaining price in Japan in December, 25 cents, and we worked it out without the surtax, with the surtax, and then the other one is 24 cents, which is the March valuation of an actual importation.

Now, in respect to tariff protection, page 40 of my Brief, my lord.

In dealing with the subject of tariff protection, I deal with it from the point of view of the whole of the people of Canada - the consumers of textile goods, and I try to deal with it in the manner in which I have tried to deal with other things and that is from the point of view of facts and looking at it from that point of view the consumers of Canada have a common law right to buy their textiles in the cheapest markets of the world. That is their right unless it is taken away from them by legislation. Nobody can interfere with that. If there is no legislation to prevent me from buying in Japan or Czecho-Slovakia or England or any other place I have got a perfect right to go and buy there and no one can by any action in the courts or any other place restrain me from doing so.



1935

Mr. Kellie: If the 14 cents is actual importation  
it ought to be pointed out that the 25 cents is the  
first six months of 1935 was not actual importation.  
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is that all importations coming in at that time had  
value of not less than 24 cents.

Mr. Kellie: It was the prevailing price in 1935  
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surtax, with the surtax, and then the other one is  
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THE COMMISSIONER: It seems to me yesterday that in certain figures you gave you were introducing a fourth clause, interested parties - that is, Canadian exporters of other products either natural or manu-

5 factured.

MR. McRUER: Yes. Of course, that arises in respect to external trade relations, and I said quite a bit about that in dealing between Japan and Canada in respect to creating a two-way flow of trade.

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THE COMMISSIONER: I just want to get the page - about page 8?

MR. McRUER: Yes, my lord. I think a great deal more might have been said during this inquiry in respect to that but, on the other hand, it is an economical matter, the facts of which are available in trade statistics of the country and we do not have to go to an investigation of the industry itself in order to develop that economic side.

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But to look at the consumers' right to buy and that right taken away from him by legislation, then we have the purpose of the legislation. The theory of the purpose of the legislation must be to protect an industry in Canada so that that industry may employ men, pay men and women such reasonable wages that the economic life of the country may be improved by virtue of the presence of the industry here. Well, that introduces a very important aspect of this inquiry.

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I have said in my Brief:



in certain figures you gave me yesterday  
a fourth class, interest parties - that is, some  
exporters of other products either natural or man-made  
I am not sure, I am not sure, I am not sure  
Mr. Brydie: Yes, of course, that arises in  
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right taken away from him by legislation, then we  
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The purpose of the legislation must be to protect an  
industry in Canada so that that industry may employ  
men, pay men and so on, and so on, and so on, and so on  
economic life of the country may be improved by vi-

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It gives to the manufacturers of protected articles a private right of taxation. It gives to them the right to tax for their own benefit the consumers and the amount of the tax is the difference between the price that the consumer might pay for the goods or similar goods in the cheapest markets of the world and the price that is charged by the protected industry. If the protected industry does not charge the consumers any more than they might have bought similar goods in the cheapest markets of the world the consumers pay no taxes. If it does not desire to charge the consumers any more there would be no need of the tariff protection. But it is not suggested that the Textile industry does not charge more than the consumers could buy for in the cheapest markets of the world. The limit of the power of taxation given to the industry is the limit of the tariff protection, the amount that goods could be imported over the tariff wall after having paid the customs duties. That is the high water mark. If they impose a higher taxation than that on their customers the customers will go abroad and buy. They may not impose the full limit that the tariff would permit, for the very reason that they desire to get the maximum limit of protection at the maximum price. If they charge the maximum that they might charge they would not get as many consumers because people could not buy and they just would not.



It gives to the structures of the

them the right to tax for their own benefit the

comparisons and the amount of the tax is the difference

world and the prices that is charged by the producers

If the lining of the overcoats wore out they would probably patch it. On the other hand if the price is lowered they would buy new overcoats. That is the situation. Very often we will see in going over the schedules of prices that in respect to many branches of this industry the limit of taxation or the taxation was limited by the price at which goods could be imported from the country where the tariff was lowest or they could be produced most cheaply.

Looking at it from the point of view of the consumer - that is, that it is a right taken from the consumer, not something given to him.

I shall have a good deal to say about my friend Mr. Heward's brief because we clash absolutely on the fundamental proposition. My friend puts his whole case in respect to the profits made by the Dominion Textile Company on the basis of what would be the earnings on capital employed in the industry and compares it to a public utility and quotes cases to support that. If you were engaged in an arbitration to take the industry away from them - that is, an expropriation of the plant - an entirely different principle is involved than the principle that is involved in the amount of taxation that they should be given, the extent of the power of taxation that they should be given and the amount of the tax they should be permitted to impose on the consumers of Canada, and the extent of the profit is an important one.





Because this is a subsidy to a private industry -  
not one voted directly by the government but a subsidy  
as truly as if it had been and one over which the  
government has no control whatever. That they do with  
it after they get it the government has no control  
over it whatever, and that will be very important  
when I come to discuss the question of the profits  
made, what they have done with the taxes after they  
have collected them. It is a privilege. They have  
taken away from the consumers a right, so that we have  
got to consider it, I submit, from that point of view.  
What have they done with the privilege? The man  
whose interest is always put to the fore and has been  
put to the fore by the government whenever they have  
dealt with the government is the working man. It is  
on his account and in his interest that the tariff  
protection is imposed. So that we are not unfair  
to see in what manner they have dealt with, I should  
say, the cestui qui trust of the privilege they hold.  
They are really trustees of a privilege. In what  
manner have they dealt with their cestui qui trust  
and in what manner have they dealt with themselves,  
in what manner has the trustee of the privilege benefit-  
ted? Because, after all, it is the consumer's money  
that has been taken and taken from him against his will.  
Well, I say, "against his will" - it is not in that  
sense I mean it - it is taken from him in violation



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and in what manner have they dealt with themselves,  
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Well, I say, "against his will" - it is not in that  
manner I mean it - it is taken from him in violation

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of his common law right but taken from him by the will  
of Parliament. But it was never intended, I submit,  
that it should be a privilege given to people to do  
what they liked with and not to account to the  
5 body that gives them this privilege, and that is the  
Parliament of Canada, and if we are meticulous in asking  
an accounting it is not unfair to them.

A great deal has been said in this inquiry, and I  
have been personally abused to a certain extent, then  
10 I looked at it from the point of view of what money  
you have put into this industry, what earnings you have  
received on that money and considered in that way.  
But I still maintain that I am absolutely right in  
15 studying it from that point of view, because if the  
consumer contributes in taxes to the industry a large  
sum of money which enables the owners of the industry  
to build it up and make it strong and substantial, is  
it right that the consumers should be called upon to  
20 pay to the owners an earning on the money they have given  
to the industry? I will deal with specific cases.  
I say that the theory surely of tariff protection  
is that an industry is to be protected for the purpose  
25 of it growing up and becoming healthy and strong so  
that it may be able to fight. Not to provide  
it with a nurse throughout life that it may languish  
in luxury and have every attention throughout  
its whole existence. Take a specific case. If  
30 an industry earns, we will say, sufficient in profits



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of Parliament. But it was never intended, I submit,  
that it should be a privilege given to people to go  
that they liked with and not to account to the  
body that gives them this privilege, and it is the  
Parliament of Canada, and it is the members in action  
on account of it is not under its laws.  
A great deal has been said in this country, and I  
have been personally asked to a certain extent, and  
I look at it from the point of view of what I  
you have put into this industry, what I consider you have  
received on that side and considered in that way.  
But I still maintain that I am absolutely right in  
studying it from that point of view, because if the  
industry is to be taken in favor of the industry, I am  
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to build it up and make it strong and substantial, is  
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I say that the theory of tariff protection  
is that an industry is to be protected for the purpose  
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it with a nurse throughout life that it may flourish.

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that it has a large surplus to its account, that it is  
able to pay off its bonds, that it has funds created  
that it may retire its preferred stock and then is  
healthy and strong, the whole theory of my friend  
Mr. Kellock's argument, and my friend Mr. Heward's  
is that we are entitled to the earnings on the money  
that is invested in that industry notwithstanding it  
is built up out of profits earned through this right  
of taxation. I meet them squarely on that and I  
say that is money contributed by the consumers to make  
you healthy and strong. They have presented to you  
a factory clear of encumbrance and now you own it  
it is not right to ask the consumers to pay to you  
a return further on the capital which they have given  
to you already. That when capital invests money  
they are entitled to a return on the money invested,  
a fair and reasonable return, and when I come to deal  
with some of the affairs of the companies I am going  
to make a generous return on the money invested.  
But what right have they got to go back to the consumers  
and say - You have provided us with plants, you have  
provided us with machinery, real estate, outside invest-  
ments, surplus accounts and all this. Now we say  
provide us with an earning on that. Wh is it not  
right that they should go further and the consumers  
be only called upon to provide them with a return  
on the capital that they have invested in the company,  
not the capital that the consumers have invested in



that it was a large surplus to its account, that it  
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is that we are entitled to the earnings on the money  
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But what right have they got to go back to the consumer  
and say - You have provided us with plants, you have  
provided us with machinery, real estate, outside invest-  
ments, surplus accounts and all this. Now we say  
provide us with an earning on that. That is it not  
the right of the consumer to provide them with a return  
on the surplus and all that invested in the company?

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the company.

THE COMMISSIONER: Well then, should that be brought about by a reduction of the protection or by its abolition? Which have you in mind?

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MR. McRUER: By a reduction of the protection to a minimum that would provide the industry with a reasonable return on the capital that they have actually invested in it. I am not suggesting anything in the nature of drastic action, and, after all, our Order in Council asks us to find things that will enable the government to found some policies for the future. But I do say this in my Brief, and I wish to deal with it later on, that we have to regard the future and not provide this industry with a protection that is going to enable bankers and financiers to bring together and amalgamate mills and companies that are now engaged in competition and built up and on the strength of the profits that the consumers have given to these industries re-float stock on the public in order that they may make millions by the amalgamations such as have taken place in the past. When I say "millions" I am putting it modestly, and I have no intention to say anything to inflame anyone or inflame the public mind but we have got to face facts of what has been done in the past and what will be done in the future, because we must have in mind the protection of the consumers as a whole, where they are exposed to the exercise of a private right of taxation with nobody

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THE COMMISSIONERS: Well then, should that be brought

about by a reduction of the protection on by the

abolition? Which have you in mind?

THE COMMISSIONERS: I am not suggesting anything in the

minimum that would provide the industry with a reason-

able return on the capital that they have actually

invested in it. I am not suggesting anything in the

nature of drastic action, and, after all, our order

in Council asks us to find things that will enable

the Government to found some policies for the future.

But I do say this in my mind, and I wish to deal with

it later on, that we have to regard the future and not

provide this industry with a protection that is going

to enable farmers and fishermen to bring together

and amalgamate mills and companies that are now scattered

in competition and built up and on the capacity of the

factories that the consumers have given to these in-

vestments re-front stock on the public in order that they

may make millions by the amalgamations such as have

been made in the past. When I say millions

of dollars, I mean millions of dollars, and I have no intention

of anything to influence anyone or influence the public

but we have got to face facts of what has been

done in the past and what will be done in the future,

and we must have in mind the protection of the

industry of the future, and that is what we are

concerned with, and that is what we are

in the world controlling it and those who are enjoying the benefit of it not making fair and open reports either to the public or to the government in respect to what they are actually earning, because we have had this investigation to find it out and I hope we have found out the whole story and we will look at it as a whole and see how substantial the profits have been in the past.

Now, I shall have to come back to these things later on because I am merely outlining the question of the approach to tariff protection and when I deal with tariff protection I will deal with it from this point of view: What was the tariff protection that the industry had over a long period of years - not in percentages of averages and that sort of thing. There can be no more vicious principle applied to tariff protection than the average tariff protection on articles irrespective of the volume of production of those articles or the volume of importations. For instance, I refer to it later on and I will come back to it - the Canadian Manufacturers Association in publishing a solemn statement in their Annual Report refers to average tariff protection on importations of certain goods from Great Britain. Well, irrespective of whether - those goods are subject to tariff on importations from Great Britain - articles that may be free from Great Britain and dutiable in





other countries, that may be raw material for the mills themselves, irrespective of the volume of production in Canada and volume of importations, to average the percent of tariff protection is not a sound basis on which to go in charting a course for the future. We have got to deal with the protection they have had. In Mr. Hooper's evidence we tried - and I take it it must have been wholly satisfactory or the industry would have come forward with other things of a similar nature - we tried in Mr. Hooper's evidence to take certain specific lines. He went to Mr. Dodd and asked him for certain representative lines which they could match up with the United States and match them up with Great Britain, &c.--that is in respect to cottons - and we deal with what actually has been the protection in the past in regard to that.

On page 43 I state:

"In order to properly consider these subsidies, it is convenient to determine:

1. What tariff protection the industry now has, or has had during the past years.
2. What measure of profit has been made by those investing in the industry.
3. If the employers of labour shared the privileges granted to them by the Customs Tariff Laws of Canada, with workers, or have they on the other hand purchased their labour in the same manner that they would purchase raw material in the lowest markets of



...in the ...  
...in the ...

...in Canada and volume of importations, to  
average the percent of tariff protection is not a sound  
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In Mr. Hooper's evidence we tried - and I take it it

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would have come forward with other things of a similar

nature - we tried in Mr. Hooper's evidence to show  
certain specific lines. We went to Mr. Bodd and asked  
him for certain representative lines which they could  
match up with the United States and match them up with

Great Britain, etc. - that is in respect to cottons -  
and we deal with what actually has been the protection  
in the past in regard to that.

On page 48 I state:

"In order to properly consider these subsidies, it is

convenient to determine:

1. What tariff protection the industry now has,  
or has had during the past years.
2. What measure of profit has been made by those  
investing in the industry.

3. If the employers of labour shared the privileges  
granted to them by the Customs Tariff Laws of Canada,  
also workers, or have they the other hand

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the Dominion?"

I shall have something to say in regard to the last, because I think I am not unfair to the Dominion Textile when I say that in their brief their enunciate that as a policy they are entitled to follow, and I will deal with that specifically, that what they pay their labour is regulated by the law of supply and demand of labour:

"The evidence in regard to tariff protection may be considered under the following heads:

1. The extent of the protection.
2. The benefit derived by the investors who have no share in productive efforts.
3. The benefit derived by the producers.
4. Specific reference to the manner in which those engaged in the industry have abused the privileges given to them, with particular references to combinations and monopolies will be dealt with in another part of my Brief."

Now, in regard to the different items to show the quantity of protection in the past I am not going into this again in detail. They appear in the evidence and I have again copied several of the Exhibits in the Brief, but if we will go to page 47, my lord, - and I think I can go through these a little faster than I have been doing otherwise this morning, and that will be a relief to some of my learned friends and me too.





At page 47 I have taken an extract from Exhibit 820 for the purpose of illustrating two or three things. One is the tariff protection that this industry had in respect to yarns of this type prior to 1930, and that was 20%. It had been 20% I think for some time.

THE COMMISSIONER: Are these cotton yarns?

MR. Mcruer: Yes, my lord. Page 44 gives the heading and detail of that. It had been 20%. The increase brought about at the special session of Parliament gave to the manufacturer of those yarns 43% on an ad valorem basis. Now, that was an increase of 115 per cent. There was an ad valorem duty and a specific duty imposed at that time. The specific duty at that time was 3 cents a pound and ad valorem 15%, 22½% and 25% - the specific 3 cents, 3½ cents and 4 cents a pound. The specific duty amounted in 1931 to more than the ad valorem duty of 22½%. This is not dealing with the United States. Now, in 1932 the total protection amounted to 62½%.

THE COMMISSIONER: No, 60½%.

MR. McRUER: Yes. The next one should be 52. Then in 1934 it amounted to 41 and when we come now to 1936 it is still, after the United States Agreement, it is still 33%. Your lordship will see very considerably higher than it was in 1930.

THE COMMISSIONER: Now, this table that is drawn



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At page 47 I have taken an extract from Exhibit

820 for the purpose of illustrating two or three

things. One is the tariff protection that this

industry had in respect to yarns of this type prior

to 1930, and that was 80%. It had been 80% I think

for some time.

THE COMMISSIONER: Are these cotton yarns?

MR. KORTNER: Yes, my lord. Page 47 gives the

heading and detail of that. It had been 80%.

The increase brought about at the special session of

Parliament gave to the manufacturer of those yarns

48% on an ad valorem basis. Now, that was an

increase of 11% per cent. There was an ad valorem

duty and a specific duty imposed at that time.

The specific duty at that time was 3 cents a pound

and ad valorem 17%, 22% and 28% - the specific

3 cents, 2% cents and 4 cents a pound. The specific

duty amounted in 1931 to more than the ad valorem

duty of 28%. This is not dealing with the United

States, is it?

to 6%.

THE COMMISSIONER: No, 60%.

MR. KORTNER: Yes. The next one should be 6%.

Then in 1934 it amounted to 41 and then we come now

to 1936 it is still, after the United States agreement,

it is still 80%. Your lordship will see very

clearly that in 1930.

Now, this whole thing is given

up has regard only to the United States importations?

MR. McRUER: Yes, the exhibit dealt entirely with yarn from the United States and Mr. Hooper's evidence was, as I recollect it, that the competing yarns of this type would likely come from the United States.

THE COMMISSIONER: We will adjourn now until quarter after two.

--

-- The Commission adjourned at 12.30 P.M. to resume at 2.15 P.M.

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up has turned only to the United States authorities.  
Mr. Monahan: Yes, the exhibit itself entirely with  
yarn from the United States and Mr. Hooper's evidence  
me, as I recollect it, that the competing yarns  
of this type would likely come from the United States.  
The Commission: We will adjourn now until  
after two.

-- The Commission adjourned at 12.50 P.M. to resume  
at 2.00 P.M.

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-- The Commission resumed at 2.15 p.m.

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ARGUMENT BY MR. McRUER, K.C. (Resumed):

5 Dealing further, my lord, with this exhibit referred to at page 47 of my brief. Your lordship will notice how the duty calculated on an ad valorem basis rose between 1930 and 1932. That was due to the fall in the price in the United States, the cost price in the United States, and the specific duty. The specific duty --

10 THE COMMISSIONER: Pardon me, you will have to explain to me what you mean by the increase in duty being due to the fall in the cost price.

15 MR. McRUER: The increase when calculated on an ad valorem basis. For instance, on the 17th of September, 1930 the selling price in Canadian funds was \$19.50.

THE COMMISSIONER: I see what you mean now.

20 MR. McRUER: The specific duty was \$4.00, and the ad valorem duty \$4.39. Well, \$4.00 was in greater proportion in 1932 to \$12.01, so that is what the increase is due to there.

25 Now, another important matter at this time is that there was quite a high rate of exchange between Canada and the United States which was an additional protection to the Canadian manufacturer. That becomes more important when I come to deal with fabrics as well, but the Canadian manufacturer has this, that when the rate of exchange is against Canada it always enures to the benefit of the Canadian manufacturer. When the currency of  
30 another country is in advance over Canadian currency then we find the Canadian manufacturer always wanting



-- The Commission returned at 2.15 p.m.

Statement by Mr. McWaters, K.C. (continued):

During the year, my lord, with this exhibit I would  
to at page 47 of my brief. Your lordship will notice

how the duty calculated on an ad valorem basis rose

between 1930 and 1932. That was due to the fall in

price in the United States, the cost price in the United

States, and the specific duty. The specific duty --

THE COMMISSIONER: From now, you will have to explain

to me what you mean by the increase in duty being due

to the fall in the cost price.

MR. McWATERS: The increase when calculated on an ad

valorem basis. For instance, on the 17th of September

1930 the selling price in Canadian funds was \$19.50.

THE COMMISSIONER: I see what you mean now.

MR. McWATERS: The specific duty was \$4.00, and the

ad valorem duty \$4.32. Well, \$4.00 was in greater

proportion in 1932 to \$12.01, so that is what the

increase is due to there.

Now, another important matter at this time is that

there was quite a high rate of exchange between Canada

and the United States which was an additional protection

to the Canadian manufacturer. That becomes more important

when I come to deal with fabrics as well, but that

Canadian manufacturer has this, that when the rate of

exchange is against Canada it always ensures to the benefit

of the Canadian manufacturer. When the currency of

the United States is in a position to fluctuate

the rate of exchange is in a position to fluctuate

the benefit of the protection that is afforded by the advance in the currency rate. We never hear a word about that angle of it, but whenever the currency of another country is depreciated then there is a cry for action under the provisions of the law to fix the value of the currency as was done with Japan. There is a dumping duty put on, a currency dump and all sorts of things of that kind. It does not seem to be quite a two way proposition.

Then, we come to the duty on the ad valorem basis that is prevailing now, and your lordship will see it is 33% as against 20%, and, of course, this is a raw material, and I have considerable to say in respect to a policy of maintaining high rates of duty on those classes of fabric, or those classes of goods, materials, textiles, that are raw materials for some other process of manufacture. Take these yarns, for instance, and that is particularly important when we deal with artificial silk yarns because they are subject to very heavy specific duties, especially when imported under the intermediate and general tariff. They are raw materials, and when you increase the cost to the weavers of these raw materials you are putting a barrier in the way of natural trade and natural employment in this country. Your lordship will remember what Mr. Binz said on the inquiry at Montmagny, that he hoped that it would increase his employment, that the last budget that reduced the tariff on acetate yarns under the British preference to 5% would result in him materially increasing his



the benefit of the protection that is afforded by the  
advance in the currency rate. I never hear a word  
about the benefit of it, but whenever the currency is  
another country is suggested then there is a cry  
for action under the provisions of the law to fix the  
value of the currency as was done with Japan. There  
is a gripping tale but on a currency thing and all  
sorts of things of that kind. It does not seem to be  
quite a two way proposition.

Then, we come to the duty on the various basis  
that is prevailing now, and your friends will see  
it is 33% as against 20%, and, of course, this is a  
raw material, and I have considerable to say in regard  
to a policy of maintaining high rates of duty on  
raw materials, that are raw materials for some  
other process of manufacturing. There these things,  
for instance, and that is particularly important

and subject to very heavy specific duties, especially  
when imported under the intermediate and general  
tariff. They are raw materials, and when you have  
the cost to the vendors of these raw materials you  
are making a barrier in the way of natural trade and  
employment, that the last thing that should be  
done is to create barriers under the tariff provisions  
is to make sure that the tariff is not a barrier in the way of natural trade and employment.

employment in his mills due to the fact that he would be able to use acetate yarns more freely than he had been able to do heretofore.

5 THE COMMISSIONER: Do we happen to know, as a matter of fact, whether he has been able to increase his employment?

MR. McRUER: Well, I spoke to Mr. Hebert and Mr. Tremblay yesterday as to how they are getting along down there, and he said he was increasing his mill by 10 50%.

THE COMMISSIONER: You mean the size of his mill?

MR. McRUER: Yes, my lord. I don't know whether Mr. Tremblay is here or not at the moment. He was here this morning.

15 THE COMMISSIONER: We will hear from him, I suppose.

MR. McRUER: I hope so.

MR. DIXON: He has gone home.

ASSISTANT SECRETARY RENE: He is supposed to be back when Mr. Beauregard is arguing.

20 MR. McRUER: At any rate, that is the statement he made to us, and it is a very important aspect of this whole thing that while you may protect the manufacturer of yarn for certain cotton mills and while you may protect the manufacturer of yarn for certain artificial 25 yarn mills you are interfering with the right of these mills to purchase their yarns in the cheapest market, and thus lower the price of the fabric to the consumer, and not only that, but increase the volume of production because the consumer's purchasing power spreads over 30 more goods, at any rate. In respect to cotton yarns



employment in his mills due to the fact that he would  
be able to use several years more twenty than he has  
been able to do heretofore.

THE COMMISSIONER: Do we happen to know, as a matter  
of fact, whether he has been able to increase his  
employment?

MR. MORRIS: Well, I spoke to Mr. H. and Mr.  
Tremblay yesterday as to how they are getting along  
down there, and he said he was increasing his mill by  
down there.

THE COMMISSIONER: You mean the size of his mill?

MR. MORRIS: Yes, my Lord. I don't know whether  
Mr. Tremblay is here or not at the moment. He was  
here this morning.

THE COMMISSIONER: He will hear from him, I suppose.

MR. MORRIS: I hope so.

MR. BRYDIE: He has gone home.

THE COMMISSIONER: He is supposed to be here  
when Mr. Tremblay is coming.

MR. MORRIS: At any rate, that is the statement he  
made to us, and it is a very important aspect of this  
whole thing that while you may protect the manufacturing  
of yarn for certain cotton mills and while you may  
protect the manufacturing of yarn for certain cotton  
mills you are interfering with the right of other  
mills to produce their yarn in the same way, and  
and that is the point of the law in the matter.  
and that is the point of the law in the matter.  
and that is the point of the law in the matter.  
and that is the point of the law in the matter.

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that is very important because practically all the yarns that are manufactured for sale are manufactured by the four large Canadian companies that are themselves weavers, and the other companies have to buy from them I deal with that on the subject of a monopoly in respect to cotton yarns in Canada, but these tariff rates now--

THE COMMISSIONER: You were referring just now to Montmagny which, of course, is artificial silk, but the budget in question reduced the duty on cotton yarns as well, didn't it? Am I right in that, Mr. Whiteley?

SECRETARY WHITELEY: The specific duty was removed.

MR. McRUER: On cotton yarns from Great Britain.

THE COMMISSIONER: Yes, I had in mind Great Britain. They were reduced. The duties were reduced.

MR. McRUER: Yes, on the last budget, but not all of them.

THE COMMISSIONER: Not all?

MR. McRUER: Not all of them, Mr. Hooper says.

THE COMMISSIONER: Certain specified cottons?

MR. McRUER: Where the specific duty applied it was taken off, but there had been some items on which there was no specific duty.

THE COMMISSIONER: They stand as they were.

MR. McRUER: They stand as they were, hosiery yarns and yarns brought in by thread manufacturers.

THE COMMISSIONER: This is all referring to Cotton yarns?

MR. McRUER: Yes, my lord. Now, we might go then to page 49, my lord, when we follow on the next study, so to speak, in respect to this same article, and that is





the comparison between Canadian and American mill spreads. As I said this morning the Canadian manufacturers' power of taxation is limited by the Customs tariff. Now, that is reflected in his mill spread, the mill spread being the difference between the cost of the raw material and the price that the article is sold at. Now, just how the Canadian manufacturer has used that power of taxation is apparent in every one of these exhibits that deal with articles that have been subject to very substantial protection, or the subject of very substantial protection.

Now, take this table that appears on page 49, my lord. We had in evidence that in the United States the prices rose from April to August in 1933 by reason of the anticipation of the adoption of the N.R.A., the anticipation of and the adoption of the N.R.A. Now, we see under the American selling prices, for instance, column four, the selling price in April, 1933 was \$13.75 and by August it was up to \$30.50. No, those are cents per pound.

THE COMMISSIONER: It is 30½ cents.

MR. MORUER: 30½ cents. The mill spread in the United States was 7.66 cents.

THE COMMISSIONER: No, in April it was 5.01.

MR. MORUER: In April 5.01, yes. In August it was 16.05 cents. Now, if we go to Canada where there was no increase in wages, and there was no N.R.A. we have the Canadian price increased from 24 cents to 28 cents, and the mill spread from 13.60 cents to 17.12 cents. Now, that is demonstrated to a greater degree



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manufacturer has used that power of taxation is  
apparent in every one of those exhibits that deal  
with articles that have been subject to very substantial  
protection, or the subject of very substantial pro-  
tection.

Now, take this table that appears on page 42, my last  
We had in evidence that in the United States the price  
rose from April to August in 1935 by reason of the  
anticipation of the adoption of the N.R.A., the  
anticipation of and the adoption of the N.R.A. Now,  
see under the American selling prices, for instance,  
column four, the selling price in April, 1935 was  
\$13.75 and by August it was up to \$20.50. Now, those

THE COMMISSIONER: It is 30¢ cents.

MR. MORRIS: 30¢ cents. The mill spread in the United

States was 7.66 cents.

THE COMMISSIONER: No, in April it was 5.01.

MR. MORRIS: In April 5.01, yes. In August it was

16.06 cents. Now, if we go to Canada where there

was no increase in wages, and there was no N.R.A., we

have the Canadian price increased from 24 cents to 28

cents, and the mill spread from 18.60 cents to 17.18

cents. That is demonstrated to a greater degree

in some of the other exhibits we have, and when we follow it through and see it occurring again and again it leads one to no other conclusion than that the Canadian manufacturer while decreasing his wages at that time increased his price and got the benefit of a greater profit to himself. The price rose in the United States, but there was no reason in the world for the rise in the price in Canada, because the Canadian manufacturer had decreased his wages in April of 1933, but he increased his prices in sympathy with the increase in price that took place in the United States, and, of course, the danger of importations from the United States was eliminated by the increase in prices there and the customs duties.

Now, when we come down to the next items in this table we find that they are very important, and are important throughout the other exhibits dealt with. In July, 1934 the Canadian manufacturer had a mill spread of 16.30 cents and the American manufacturer had a mill spread of 8.76 cents. Now, these figures in this statement are calculated with the consumption tax taken out in the United States because that was a tax that was included in his mill spread but did not go to the manufacturer. That was a tax that went to the government so that 8.76 cents is what the manufacturer got in his mill spread so that the mill spread in Canada--

THE COMMISSIONER: Just a minute; what induced the great fall in the mill spread in the United States between August, 1933 and July, 1934.

MR. McRUER: It was apparently a decline in prices.



in some of the other exhibits we have, and when we follow it through and see it occurring again and again it leads one to no other conclusion than that the Canadian manufacturer while decreasing his wages at that time increased his price and got the benefit of a greater profit to himself. The price rose in the United States, but there was no reason in the world for the rise in the price in Canada, because the Canadian manufacturer had decreased his wages in April of 1900 but he increased his price in sympathy with the increase in price that took place in the United States, and, of course, the danger of importations from the United States was eliminated by the increase in price there and the customs duties.

Now, when we come down to the next item in this table we find that they are very important, and are important throughout the other exhibits dealt with. In July, 1904 the Canadian manufacturer had a mill spread of 8.75 cents. Now, these figures in this statement are calculated with the consumption tax taken out in the United States because that was a tax that was included in his mill spread but did not go to the manufacturer. That was a tax that went to the government so that 8.75 cents is what the manufacturer got in his mill spread so that the mill spread in the United States fell in the mill spread in the United States between August, 1900 and July, 1904.

Now, if we apparently a decision is reached

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Mr. Hooper suggests it was artificial prices that had come up from the anticipation of the N.R.A. Then, we come to September, 1935. The Canadian mill spread was 15.82 cents and the American mill spread 9.75 cents, and in April, 1936 the Canadian mill spread was 15.47 cents and the American mill spread 9.96 cents. So that without the provisions of the N.R.A. in effect in Canada, and with the provisions in effect only part of the time in the United States, and at other times although not in effect by act of Parliament the evidence is that 90% of the mills were observing them, we have a very much greater mill spread in Canada than in the United States.

Now, it is fair to say, I think, that the Canadian mills' contention is that the volume of production is greater in the United States per mill and they can do business on a lower mill spread. That may be true, but at the same time it is incomprehensible that the Canadian mills in a time of depression, and given the tariff protection that these mills were given in 1930 under pledges not to increase prices to the consumers of Canada, should increase their own mill spreads with a decrease of wages, because it is all very well to say "we will not increase prices except as raw materials justify -- except as the cost of raw materials justifies". That is a one way bargain unless it carries with it a moral understanding that if raw materials decrease we will decrease prices. If you are going to start off and say to the Government "we have the right to increase



Mr. Hooper suggests it was anticipated when the tariff  
 came up from the anticipation of the N.R.A. Then, we  
 10.83 cents and the American will agree 8.75 cents,  
 and in April, 1930 the Canadian will agree 13.47  
 cents and the American will agree 8.75 cents. So  
 that without the provisions of the N.R.A. in effect  
 in Canada, and with the provisions in effect only part  
 of the time in the United States, and at other times  
 although not in effect by act of Parliament the evidence  
 is that 80% of the mills were observing them, we have  
 a very much greater will agree in Canada than in the  
 United States.

Now, it is fair to say, I think, that the Canadian  
 miller's contention is that the volume of production  
 is greater in the United States per mill and they can  
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 tariff protection that these mills were given in 1930  
 under pledges not to increase prices to the consumers  
 of Canada, should increase their own mill agrees with  
 a decrease of wages, because it is all very well to  
 "we will not increase prices except as raw materials  
 justify -- except as the cost of raw materials justify  
 That is a one way bargain unless it carries with it a  
 moral understanding that if raw materials decrease we  
 will decrease prices. If you are going to start off  
 and say to the Government "we have the right to increase

our prices if raw materials go up, but if raw materials go down we maintain our prices, or maintain a higher mill spread than we had had before", that isn't surely a sound sort of bargain. It may be the bargain they had. I don't know, but I would not judge it from the correspondence that we have looked at. I thought there was something of a higher moral obligation than that.

Now, I have in my brief gone through this exhibit rather in detail, but I think I have touched on the points that I desire particularly to illustrate in dealing with it. However, there is one matter on page 52 that throws some light on it, and that is according to exhibit 1230 which was a statement of mill wages, the percentage of sales dollar in mill wages:-

THE COMMISSIONER: What is exhibit 1230 referring to, what class of mills?

MR. McRUER: It was distribution of the sales dollar of the Dominion Textile Company.

"The mill wages amounted to 25.31 percent of the sales dollar. According to exhibit 821 the selling price of Yarn in April, 1936, was 29.5 cents per pound. 7.4 cents would account for the wages paid in the fabrication of a pound of yarn. Exhibit 820 shows that in April, 1936, the total protection on a pound of yarn imported from the United States amounted to 8.09 cents. It therefore follows that the protection still afforded the manufacturer of this type of yarn amounts to considerably more than the total wages paid in fabricating the yarn".



our prices if raw materials go up, but if raw materials  
go down we maintain our prices, or maintain a higher  
will suppose than we had before, that isn't exactly  
a count sort of bargain. If may be the bargain they  
I don't know, but I would not judge it from the count  
purchases that we have looked at. I thought there was  
something of a higher moral obligation than that.  
Now, I have in my brief gone through this exhibit  
rather in detail, but I think I have touched on the  
points that I desire particularly to illustrate in  
dealing with it. However, there is one matter on page  
32 that throws some light on it, and that is according  
to exhibit 1830 which was a statement of mill wages,  
the percentage of sales dollar in mill wages--  
what class of mill?  
Mr. BRYDIE: It was distribution of the sales dollar  
of the Dominion Textile Company.  
The mill wages amounted to 22.71 percent of the  
sales dollar. According to exhibit 181 the  
selling price of yarn in April, 1914, was 22.4 cents  
per pound. 7.4 cents would account for the wages  
paid in the fabrication of a pound of yarn. Exhibit  
1820 shows that in April, 1915, the total cost of  
on a pound of yarn amounted from the United States  
amounted to 2.09 cents. If there are factors that  
the protection still afforded the manufacturer of  
type of yarn amounts to considerably more than the  
mill wages paid in fabricating the yarn.

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But as far as Canada and the United States are concerned this question of lower wages and protection on account of lower wages is entirely out of consideration because wages are higher in the United States than they are in Canada.

MR. HEWARD: May I point out, Mr. McRuer, before you leave that, that exhibit 1230 does not deal with yarn alone. It deals with all fabrics, everything produced.

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MR. McRUER: It is the percentage of the Dominion Textiles distribution of sales dollar.

MR. HEWARD: But yarn is not our sole product.

MR. McRUER: I know that.

MR. HEWARD: 1230 applies to our sales dollar generally.

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MR. McRUER: But your protection on your fabric is very much higher than the protection on the yarn, isn't it, so that the argument -- I am not unfair when I apply it to the yarn because the rate of protection on the fabric is higher. We are dealing with the minimum.

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However, I quite agree with my friend, Mr. Heward, that to attempt to deal with these things on general averages, they are not conclusive in any sense of the term, and what I say in regard to that is necessarily subject to the qualification that that does apply to all other fabrics, but I would have thought that the fact that the protection was higher on the fabric would have a balancing relation, at any rate.

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Then, if we go to page 53, my lord, it deals with a different type, cotton warp yarn, 30's twisted. Now, exhibits 822 and 823 deal with this type of yarn, and we have here the fact that in 1930 the rate of duty

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on this type of yarn was 25% ad valorem. It was a little higher than the other. On the other it was 20%. When you take the specific duty, excise tax and the ad valorem duty in effect at the present time calculated on an ad valorem basis it is 38% so that we are very much above the rate in 1930, and I think from a national point of view, my lord, we have to get our minds focused on that very fact that these duties in 1930, I think, were regarded by the Government of that day as emergency measures, so to speak, and we cannot let them stand for the duties for the future if we are going to be fair to the consumers simply because we are coming now into a term of what we hope will be prosperity.

We are not unfair to these companies if we compare the situation to-day with what it was in 1930, because we can take the protection they had over a long period of years from 1907 to 1930 and we have their record of how they got along with that protection. I think I could argue very strongly it was much too much but it did enable them to become pretty strong and healthy and possessed of good fighting constitutions.

Now, in regard to the excise tax; this applies to all fabrics. I wish to draw this to your lordship's attention. The excise tax is three per cent on articles imported from countries other than Great Britain. Now, that is not three per cent on the cost of the article, that is three per cent on the duty paid value of the article, and where you get these articles that are loaded with an ad valorem duty, specific duties, and then dumping duties the three per cent on the duty paid value



...the rate of duty was 10% in 1900, and I think from a national  
point of view, my lord, we have to get our kind of  
on that very fact that these duties in 1900, I think,  
were regarded by the Government of that day as  
for the duties for the future if we were going to be  
fair to the consumers simply because we are coming  
into a time of what we hope will be prosperity.  
We are not unfair to these consumers if we compare  
the situation to-day with what it was in 1900, because  
we can take the protection they had over a long period  
of years from 1907 to 1930 and we have their record of  
how they got along with that protection. I think I  
could argue very strongly it was much too much but it  
did enable them to become profit, strong and healthy and  
possessed of good fighting capabilities.  
Now, in regard to the excise tax; this applies to  
fabrics. I wish to draw this to your lordship's  
attention. The excise tax is three per cent on articles  
that is three per cent on the duty and value of the  
article, and where you put these articles that are

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is a very great deal greater protection than three per cent on the value of the article.

THE COMMISSIONER: I don't know yet why it is called an excise tax. It is imposed only on foreign importations just like a customs tax. However, there it is.

MR. KELLOCK: It is a revenue tax, my lord, I suppose.

THE COMMISSIONER: I know, but they are all revenue taxes.

MR. McRUER: It isn't a duty because it is imposed not on the value of the goods but on the duty paid value and it is a tax on tax.

THE COMMISSIONER: It is a surtax.

MR. McRUER: Take, for instance --

THE COMMISSIONER: It is a surtax on the customs tax.

MR. McRUER: Yes.

THE COMMISSIONER: Only they call it an excise tax. Excise tax used to mean a tax you applied to all products, even home products.

MR. McRUER: Yes; well, on liquor, for instance.

THE COMMISSIONER: Take liquor manufactured in Canada; it pays an excise tax.

MR. McRUER: And tobacco.

THE COMMISSIONER: However, I suppose you can make a thing mean anything you like.

MR. McRUER: They call it excise in the statute.

THE COMMISSIONER: You take the customs duties. After you have got them settled then you put on a surtax of whatever it happens to be. 3 per cent, is it?

MR. McRUER: 3 per cent; so if your customs duties in many cases as they do amount to 100 per cent an



is a very great deal greater satisfaction than three per cent on the value of the article.

THE COMMISSIONER: I don't know yet why it is called an excise tax. It is imposed only on foreign imports. Just like a customs tax. However, there it is. KELLER: It is a revenue tax, my lord, I suppose. THE COMMISSIONER: I know, but they are all revenue taxes.

MR. MORRIS: If I am a duty because it is imposed on the value of the goods but on the duty paid value and it is a tax on tax.

THE COMMISSIONER: It is a surtax. MR. MORRIS: Yes, for instance --

THE COMMISSIONER: It is a surtax on the customs tax. MR. MORRIS: Yes.

THE COMMISSIONER: Why they call it an excise tax. Excise tax used to mean a tax you applied to all products, even home products.

MR. MORRIS: Yes; well, on liquor, for instance.

THE COMMISSIONER: This liquor manufactured in Canada.

It was an excise tax.

MR. MORRIS: Yes, my lord.

THE COMMISSIONER: I suppose you are not sure of that.

thing mean anything you like.

MR. MORRIS: They call it excise in the statute.

THE COMMISSIONER: You take the customs duties, and

you have that same excise and you pay it to the government.

Excise is imposed on the goods, is it not?

MR. MORRIS: Yes, my lord, on all goods imported.

is very easy as they amount to 100 per cent on

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article that costs \$100 abroad, it is subject to another \$100 duty and then the 3 per cent excise is calculated on \$200.

THE COMMISSIONER: Which is \$6.00.

5 MR. McRUER: \$6.00, half of which is a tax on tax, not on the price of the goods or anything else. In this particular case that is dealt with at page 53 the excise taxes alone range from 81 cents per pound to \$1.67 per pound which indicates what a substantial  
10 protection it is to the Canadian manufacturer. Now, there is this to be said in respect to the Canadian manufacturers, and that is that they pay excise tax on the raw cotton although it is not subject to any  
15 duty, but it is all imported into this country.

THE COMMISSIONER: You say it is not subject to any duty?

MR. McRUER: No, my lord.

THE COMMISSIONER: Just the excise?

20 MR. McRUER: Just the excise tax, but it is a raw material.

THE COMMISSIONER: What is the excise on raw cotton?

MR. McRUER: Three per cent, my lord.

THE COMMISSIONER: Three per cent on its selling price?

25 MR. McRUER: Yes, my lord. Mr. Gordon tells me cotton imported from India will come in free of the excise tax, but not from Egypt, and, of course, the great bulk of their cotton comes from the United States. So that the position we are now in since the United  
30 States trade agreement



article that costs \$100 abroad, it is subject to another \$100 duty and then the 5 per cent excise is calculated on \$200.

THE COMMISSIONER: Which is \$200.  
MR. McRUR: \$200, half of which is a tax on tax, not on the price of the goods or anything else. In this particular case that is dealt with at page 28 the excise taxes alone range from 81 cents per pound on the raw cotton although it is not subject to any duty, but it is all imposed into this country.  
THE COMMISSIONER: You say it is not subject to any duty?

MR. McRUR: No, my lord.  
THE COMMISSIONER: What the excise?  
MR. McRUR: What the excise tax, but it is a raw

article.  
THE COMMISSIONER: What is the excise on raw cotton?  
MR. McRUR: Three per cent, my lord.  
THE COMMISSIONER: Three per cent on its selling price?  
MR. McRUR: Yes, my lord. Mr. Gordon tells me cotton imported from India will come in free of the excise tax, but not from Egypt, and, of course, the great bulk of their cotton comes from the United States.

THE COMMISSIONER: Then, in the case of raw cotton you have a very good example of the purely revenue tax because raw cotton must come in and whatever is collected there goes to the Government, doesn't it?

5 MR. McRUER: Yes. On a 100 pound lot selling in the United States in June, 1930 at \$34.00 the duty payable at that time was \$8.50. On a 100 pound lot selling in the United States in April, 1936 at \$30.50 -- that is \$4.00 less -- the duty payable was \$11.63.

10 THE COMMISSIONER: One of your figures is wrong. It is \$30.67. You said \$30.50. You are referring to the last item, are you not, on the table?

MR. McRUER: Yes, that is right.

15 THE COMMISSIONER: It is just for the sake of the accurate reporting that I make that correction.

MR. McRUER: Mr. Hooper says the difference is the exchange. One is in Canadian funds and the other American.

20 THE COMMISSIONER: In this table you have put it at \$30.67.

25 MR. McRUER: I say a 100 pound lot selling in the United States of America, the price was \$30.50. That is the American price. There is 17 cents there of exchange rate. Now, again exhibit 823 deals with mill spreads --

THE COMMISSIONER: Where is that?

30 MR. McRUER: Page 54, my lord. Now, we have the same thing here. The mill spread in April, 1933, the Canadian mill spread was 25.60 cents and it moved up in August, 1933 to 29.12 cents. In April, 1933, the



THE COMMISSIONER: Then, in the case of raw cotton

you have a very good example of the purely revenue  
tax because raw cotton must come in and whatever is  
collected there goes to the Government, doesn't it?

MR. McRURR: Yes. On a 100 pound lot selling in

the United States in June, 1930 at \$84.00 the duty

payable at that time was \$8.50. On a 100 pound lot

selling in the United States in July, 1930 at \$80.50

that is \$4.00 less -- the duty payable was \$1.65.

THE COMMISSIONER: One of your figures is wrong.

If it is \$80.50. You said \$80.50. You are referring to

the last item, are you not, on the table?

MR. McRURR: Yes, that is right.

THE COMMISSIONER: It is just for the sake of the

exchange. One is in Canadian funds and the other one

is in American dollars. Mr. McRur, says the difference is the

exchange rate. Now, again exhibit 833 deals with the

exchange rate. Now, again exhibit 833 deals with the

exchange rate. Now, again exhibit 833 deals with the

exchange rate. Now, again exhibit 833 deals with the

exchange rate. Now, again exhibit 833 deals with the

exchange rate. Now, again exhibit 833 deals with the

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exchange rate. Now, again exhibit 833 deals with the

exchange rate. Now, again exhibit 833 deals with the

exchange rate. Now, again exhibit 833 deals with the

reduction in wages that was made in April, 1932 was still in effect to the extent, at any rate, of 5½ per cent.

MR. G. BLAIR GORDON: It was made in April, 1933.

5 MR. MC RUER: It was made in April, 1933, so the full 10% was in effect. Now, we come to the American mill spread and we see it jumps up from 11.26 cents to 24.55 cents, there again showing the inflation on account of the anticipation of and the putting into effect of the  
10 N.R.A., and then dropping away again. Then, we have the Canadian mill spread for the years 1934, 1935 and 1936. These are examples taken during those years, where the Canadian mill spread was as high in 1934 as 12 cents above the American mill spread, that is August,  
15 1934, and in September, 1935 7 cents, 7½ cents really, and in April, 1936, about 8½ cents. So that e-

THE COMMISSIONER: Can you tell me when the N.R.A. induced the increases in wages in the United States?

20 MR. MC RUER: When the increases took place?

THE COMMISSIONER: It was 1931, wasn't it?

MR. MC RUER: No, 1933, my lord, the 16th of July, 1933.

THE COMMISSIONER: As late as that.

MR. MC RUER: It came into effect then, but Mr. Hooper's  
25 evidence was that for a few months prior there was a general up-turn in prices in the United States in anticipation of the adoption of an act of that sort, and, of course, when we speak of the N.R.A. we include with it the A.A.A.

30 THE COMMISSIONER: I forget what those three letters mean. N.R.A. means National Recovery Act. What is A.A.A.?



reflected in wages that were in April, 1935 was still in effect to the extent, of any rate, of 25 per

MR. G. H. HALL: It was made in April, 1935.

MR. W. H. HALL: It was made in April, 1935, as the 1935 was in effect.

Now, we come to the question of the 1935 was in effect.

agreed and we see it stands in 1935 cents to

of the anticipation of and the putting into effect of

1935. These are examples taken during those years,

where the Canadian will spread was as high in 1934 as

is cents above the American will spread, that is, 1935

1935, and in 1935, 1935 7 cents, 75 cents twenty,

and in April, 1935, about 25 cents. So that --

THE CHAIRMAN: Can you tell me when the A.A.A.

induced the increase in wages in the United States?

MR. HALL: When the increase took place?

THE CHAIRMAN: It was 1931, wasn't it?

MR. HALL: No, 1935, my lord, the 15th of July, 1935.

THE CHAIRMAN: As late as that.

MR. HALL: It came into effect then, but Mr. H. H. H.

evidence was that for a few months prior there was a

general up-turn in prices in the United States in anticipation of the adoption of an act of that sort, and, of

course, we have seen the 1935, we have seen it

the 1935.

THE CHAIRMAN: I forget what those three letters

mean, but I am not sure I Recovery Act is A.A.A.

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MR. McRUER: Agricultural Administration Act.

MR. KELLOCK: Adjustment.

MR. McRUER: Agricultural Adjustment Act. Mr. Hooper points out that brought in the processing tax. Now, the processing tax has been deducted from all these items that are marked with an asterisk.

Then we come to page 56 which deals with another type of yarn which was subject to  $22\frac{1}{2}$  per cent ad valorem duty prior to 1930. The effect of the increases at that time on this yarn are shown, becoming 38%, and went up as high as 49%, of course, again influenced by the relation between the specific duty and the cost of the yarn, and it stands to-day showing a protection of 30%.

Now, at page 57 hosiery yarn is dealt with, 30's single hosiery yarns, and I think this is the only illustration that shows a reduction of duty between 1930 and 1936. Your lordship will notice that the rate was  $22\frac{1}{2}$  per cent in 1930, and after September, 1930 it remained the same. There was no increase here in these yarns in 1930.

THE COMMISSIONER: You are still dealing with cotton yarns?

MR. McRUER: Yes, my lord, but there was a decrease in 1936 when the intermediate tariff was adopted in place of the general tariff.

THE COMMISSIONER: The intermediate tariff you say was adopted in place of the general?

MR. McRUER: Was extended to the United States.

THE COMMISSIONER: Just to the United States?

MR. McRUER: Yes, my lord, and that is all I have to say



1900

... adjustment.  
... Agricultural Adjustment Act. Mr. Hoover  
points out that brought in the processing tax. Now,  
the processing tax has been deducted from all these  
items that are marked with an asterisk.  
Then we come to page 56 which deals with another  
type of yarn which was subject to 32 1/2 per cent ad valorem  
duty prior to 1930. The effect of the increase at  
that time on this yarn are shown, becoming 38 1/2, and we  
are as high as 42 1/2, of course, again influenced by the  
relation between the specific duty and the cost of the  
yarn, and it stands today showing a protection of 30 1/2  
Now, at page 57 postery yarn is dealt with, 30 1/2  
single postery yarns, and I think this is the only  
illustration that shows a reduction of duty between 1913  
and 1938. Your Lordship will notice that the rate  
was 22 1/2 per cent in 1930, and after September, 1930  
it became 20 per cent. ...  
these yarns in 1930.  
THE COMMISSIONER: You are still dealing with cotton  
yarns?  
MR. McKEITH: Yes, my lord, but there was a decrease  
in 1938 when the intermediate tariff was adopted in  
place of the general tariff.  
THE COMMISSIONER: The intermediate tariff you say was  
adopted in place of the general?  
MR. McKEITH: Yes, extended to the United States.  
THE COMMISSIONER: Just to the United States?  
MR. McKEITH: Yes, my lord, and that is all I have to

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in respect to cotton yarns, my lord.

We now come to the subject of cotton fabrics. Mr. Hooper just points out in respect to yarn prices, my lord, that exhibit 1319 shows that the prices of yarn in the United States are up compared with what they were.

THE COMMISSIONER: That is, they are up now?

MR. McRUER: They are up now compared with what they were earlier this year.

THE COMMISSIONER: Earlier this year?

MR. McRUER: Yes.

THE COMMISSIONER: On cotton yarn?

MR. McRUER: Yes; for instance, cotton warp 10's singles in January was 25 cents and in December was 29½ cents. Yarns on tubes, 30's singles were 32½ cents and on December 31st, 1936 37½, and the two ply 30's twisted, on January 30th, 1936 they were 34 cents and to-day they are 39 cents. Hosiery on cones was 33 cents and to-day they are 37 cents. So that there seems to have been no lowering of the prices that would make anyone apprehensive of any unfair competition from the United States in respect to these yarns. Mr. Hooper says that the prices have advanced in England as well in the meantime. I suppose it is the general up-turn of prices pretty much the world over.

THE COMMISSIONER: What about Canada?

MR. McRUER: Mr. Gordon confesses they have advanced in Canada as well.

Now, we come to cotton fabrics. On page 60 I have copied a substantial part of exhibit 805 that gives the rates of duty applicable throughout the years since



in respect to cotton yarns, my lord.

Now come to the subject of cotton fabrics, Mr.

Hooper just points out in respect to yarn prices, my

lord, that exhibit 1118 shows that the prices of yarn

in the United States are up compared with what they were

THE COMMISSIONER: That is, they are up now?

MR. MONROE: They are up now compared with what they

were earlier this year.

THE COMMISSIONER: That is, they are up now?

MR. MONROE: Yes.

THE COMMISSIONER: That is, they are up now?

MR. MONROE: Yes; for instance, cotton warp 10's

single in January was 35 cents and in December was

35 cents. Yarn on stock, 35's singles were

35 cents and on December 31st, 1890 37 1/2, and the two

ply 30's twisted, on January 30th, 1890 they were

34 cents and to-day they are 39 cents. Hooper on cotton

was 35 cents and to-day they are 37 cents. So that

there seems to have been no lowering of the prices that

would make anyone apprehensive of any unfair competition

from the United States in respect to these yarns, Mr.

Hooper says that the prices have advanced in England as

well in the meantime. I suppose it is the general

movement of prices that has brought this about.

THE COMMISSIONER: Right about 1890?

MR. MONROE: Mr. Hooper continues they have advanced

in Canada as well.

Now, we come to cotton fabrics. On page 60 I have

covered a table which shows the rates of duty applicable throughout the years since

the rates of duty applicable throughout the years since

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1907 on cotton fabrics, and in this respect my friend, Mr. Kellock, has made some statements in his brief that I am afraid are not founded on the facts, in respect to the rates of duty being less now, or less over the period of time than they were in 1897.

THE COMMISSIONER: You are referring to what page?

MR. McRUER: I am just looking for it now, my lord, because I wish to have it corrected. On page three, section F, of Mr. Kellock's brief this statement is made:

" The history of the tariff rates in effect at various dates on imports of cottons is shown in Exhibits 133, 507, 803, 804, 892, 893, 894. These exhibits show that the present tariff rates affecting cotton goods are now lower than they have been for the greater part of the period since 1897 when these tariffs were first provided. For example - the preferential tariff rate on grey cotton fabrics was 21.9% in 1897 and is now 15%, and the rate on cotton yarn coarser than 40's was 21.9% in 1897 and is now 12½%."

Now, exhibit 804 -- these exhibits do not show this to be a fact. In 1907 the rate on cotton fabrics was 15%.

THE COMMISSIONER: Not 21.9?

MR. McRUER: Mr. Kellock says in 1897 it was 21.9.

THE COMMISSIONER: You say that should be 15?

MR. McRUER: He says that "for the greater part of the period since 1897"--

THE COMMISSIONER: But more specifically he gives an example.

MR. McRUER: Which is in 1897.

THE COMMISSIONER: You say that should be 15?



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1907 on cotton fabrics, and in this respect my friends, Mr. Kellock, has made some statements in his belief that I am afraid are not founded on the facts, in respect of the rates of duty being less now, or less over the period of time than they were in 1897.

THE COMMISSIONER: You are referring to what page? MR. JACOBI: I am just looking for it now, my lord, because I wish to have it corrected. On page three, section 2, of Mr. Kellock's brief this statement is made:

"The history of the tariff rates in effect at various dates on imports of cottons is shown in Exhibit A, 207, 208, 209, 210, 211, 212, 213, 214. These exhibits show that the present tariff rates affecting cotton goods are now lower than they have been for the greater part of the period since 1897 when these tariffs were 21.9% in 1897 and 21.9% in 1907 and 1908, and the rate on cotton yarn coarser than 40's was 21.9% in 1897 and is now 18%."

Now, exhibit 204 -- these exhibits do not show this to be a fact. In 1907 the rate on cotton fabrics was 18%.

THE COMMISSIONER: Not 21.9?

MR. JACOBI: Mr. Kellock says in 1897 it was 21.9.

THE COMMISSIONER: For say that should be 18?

MR. JACOBI: He says that for the greater part of

period since 1897--

which is in 1897.

On say that should be 18?

MR. McRUER: In 1907 it was 15%.

THE COMMISSIONER: I thought you said 1897.

MR. McRUER: The statement here is the tariffs are lower now than they were for the greater part of the period since 1897 to date.

THE COMMISSIONER: Well, that statement is too broad, probably.

MR. McRUER: It is very much too broad. I don't know what they were in 1897. If there are any exhibits, any of these exhibits telling what they were in 1897 I have forgotten that was a fact.

THE COMMISSIONER: I should expect they would because Mr. Kellock gives an example and he says the preferential tariff rate on grey cotton fabrics was 21.9% in 1897.

MR. McRUER: Is that shown in any of these exhibits?

MR. KELLOCK: That is my statement and I understand it is correct.

MR. McRUER: Which one of these exhibits is it in?

MR. KELLOCK: I think it is either 892, 893 or 894.

MR. McRUER: Yes, 892, yes.

THE COMMISSIONER: Is that right?

MR. McRUER: It is in 892; yes, that is right. The point is that the statement is made here that these exhibits show that "the present tariff rates affecting cotton goods are now lower than they have been for the greater part of the period since 1897 when these tariffs were first provided", What I am going to demonstrate is they are not lower now than they were for the greater part of the period since that time, by just giving the rates that prevailed at different times. From August



1917

MR. McNEIL: In 1907 it was 188.

THE COMMISSIONER: I thought you said 1887.

MR. McNEIL: The statement here is the tariff is lower now than they were for the greater part of the

period since 1897 to date.

THE COMMISSIONER: Well, that statement is too broad.

1917

MR. McNEIL: It is very much too broad. I don't know

what they were in 1907. If there are any exhibits,

any of these exhibits telling what they were in 1907

I have forgotten that was a fact.

THE COMMISSIONER: I should expect they would be

Mr. Kellock gives an example and he says the present

tariff rate on grey cotton fabrics was 21.25 in 1907.

MR. McNEIL: Is that shown in any of these exhibits

MR. McNEIL: That is my statement and I understand

it is correct.

MR. McNEIL: Again one of these exhibits is it in?

MR. McNEIL: I think it is either 22, 23 or 24.

MR. McNEIL: Yes, 22, 23, 24.

THE COMMISSIONER: Is that right?

MR. McNEIL: It is in 22; yes, that is right. The

point is that the statement is made here that these

exhibits show that the present tariff rates are

cotton goods are now lower than they have been for the

greater part of the period since 1907 when these

were first provided. That I am going to demonstrate

is they are not lower now than they were for the greater

part of the period since that time, by just giving the

facts and figures at the present time.

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23, 1897 to July 1st, 1898--

MR. KELLOCK: Not so fast, please.

THE COMMISSIONER: What dates did you say?

MR. McRUER: August 23, 1897 to July 1st, 1898

5 they were 21.9 per cent.

THE COMMISSIONER: As shown here.

MR. McRUER: Yes, my lord. That is under a reciprocal  
schedule, but from July 1st, 1898 to August 1st, 1898  
they are  $18\frac{3}{4}$  per cent. From August 1st, 1898 to  
10 July 1st, 1900 they are  $18\frac{3}{4}$  per cent.

MR. KELLOCK: Not so fast please. July 1st, 1900 --

MR. McRUER: They are all in this exhibit. Haven't  
you a copy of it?

15 MR. KELLOCK: I would like to follow your statement  
inasmuch as you say my statement is not correct.

MR. McRUER: July 1st, 1900 to November 30, 1906,  
they were  $16\frac{2}{3}$  per cent.

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(page 14020 follows)

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14018

28, 1927 to July 1st, 1928--

MR. KENLOCK: Not so fast, please.

THE COMMISSIONER: What dates did you say?

MR. KENLOCK: August 28, 1927 to July 1st, 1928

they were 21.9 per cent.

THE COMMISSIONER: As shown here.

MR. KENLOCK: Yes, I am. That is what I mean.

schedule, but from July 1st, 1928 to August 1st, 1928

they are 12 1/2 per cent. From August 1st, 1928 to

July 1st, 1929 they are 12 1/2 per cent.

MR. KENLOCK: Not so fast please. July 1st, 1929--

MR. KENLOCK: They are all in this exhibit. Haven't

you a copy of it?

MR. KENLOCK: I would like to follow your statement

inasmuch as you say my statement is not correct.

MR. KENLOCK: July 1st, 1929 to August 1st, 1929

they were 12 1/2 per cent.

(From 1928 to 1929)

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From 1907 to 1922, it was 15 per cent; from 1922 to 1930,  $12\frac{1}{2}$  per cent; from 1930,  $17\frac{1}{2}$  per cent plus 3 cents per pound; 1936, 15 per cent. There are reductions after 1930, in 1932 and 1933, but the point I make is that they are back to where they were in 1907, but they have not --

THE COMMISSIONER: Do you say they are back to where they were in 1897 ?

MR. McRUER: In 1907. Between 1897 and 1930 there was only the period between 1897 and 1907 that they were higher than they are to-day, but my friend's statement would lead one to believe that for the greater part of that period they have been higher than they are to-day. They were down in the period from 1922 to 1930 to  $12\frac{1}{2}$  per cent.

MR. KELLOCK: That is only eight years.

MR. McRUER: I know, but your point is that for the greater part of this period of forty years --

MR. KELLOCK: That is eight years out of forty.

MR. McRUER: Eight years out of forty they were higher, but your point is that they are now lower than they have been for the greater part of that period, and I am pointing out that they are not lower than they were for the greater part of the period. They are back to where they were for a great part of it, from 1907 to 1922, but they are not lower than they were.

MR. KELLOCK: There is only one period of eight



From July to 1982, it was 12 per cent; from 1982 to

There are 13 per cent. of the total

-- you even went that far, did you not --

W.R. McCREE: In 1907. Between 1888 and 1890 the

100-443887-100

years when they were lower than they are now.

MR. McRUER: But your statement is that they are lower now, 15 per cent and 15 per cent; it is the same.

THE COMMISSIONER: 15 per cent to 1922, and 12½ per cent from 1922 to 1930.

MR. McRUER: That is right.

THE COMMISSIONER: Now it is back to the 1907 figure?

MR. McRUER: Yes. It is not lower than it was in 1907, it is back at that figure.

MR. KELLOCK: The statement is still accurate although the picture is not as bright as it might be. There were thirteen years where the duty was equal to or less than it is to-day, and nineteen years when the duties were higher than they are to-day, according to my arithmetic.

MR. McRUER: Twenty-three years, from 1907 to 1930.

THE COMMISSIONER: It does not amount to much.

MR. McRUER: It does not amount to much, but what I am getting at is that to put before us any suggestion that the duties are lower now than they have been for the greater period of the last forty years is not quite the way to put it. That is respecting goods in the grey.

When we come to bleached, in 1907 the rate was 17½ per cent up until 1922, when it was reduced to 15 per cent. In 1930 it was increased to 20 per cent



1930

years when they were lower than they are now.

MR. McNEIL: But your statement is that they

are lower now. 15 per cent and 15 per cent; is

in the same.

THE COMMISSIONER: 15 per cent in 1922, and

12 1/2 per cent from 1922 to 1930.

MR. McNEIL: That is right.

THE COMMISSIONER: Now it is back to the 1907

figure?

MR. McNEIL: Yes. It is not lower than it was

in 1907, it is back at that figure.

MR. McNEIL: The statement is still accurate

although the picture is not as bright as it might be.

There were thirteen years where the duty was equal

to or less than it is to-day, and thirteen years when

the duties were higher than they are to-day, according

to my arithmetic.

MR. McNEIL: Twenty-three years, from 1907

to 1930.

THE COMMISSIONER: It does not amount to much.

MR. McNEIL: It does not amount to much, but

what I am getting at is that to put before us any

suggestion that the duties are lower now than they

have been for the greater period of the last forty

years is not quite the way to put it. That is not

positive words in the way.

Now we come to 1930, in 1930 the duty was

17 1/2 per cent up until 1922, when it was reduced to

15 per cent. In 1930 it was increased to 20 per cent

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plus three cents, and there are variations from then on. In 1936, it is 18 per cent. So it is higher still than it ever was from 1907 to 1936.

5 THE COMMISSIONER: What item are you dealing with now on this page ?

MR. MCURRER: The same paragraph. The figures I am giving are taken from Exhibit No. 805. The rate is higher now than it was from 1907 to 1920, and 3 per cent higher than it was from 1922 to 1930.

10 Then when we come to cotton fabrics coloured, in 1907 the duty was 25 per cent; in 1922, 22½ per cent, and in 1928 it was down as far as 20 per cent; in 1930, 22½ per cent plus three cents per pound, and in 1936 22½ per cent. These figures, too, it must be remembered, are British preferential tariffs and the higher tariffs still apply under the intermediate and general scales; the specific duties are still there. I can go on through Exhibit No. 15 804 in regard to the yarns too. In 1907 the duty was 17 per cent; in 1922, 15 per cent, and in 1928 the item was split up, and 20's and coarser came in at 10 per cent and 40's at 12 per cent. In 1930 the duties were raised again. Now they are 12½ 20 per cent. But again the same thing applies, that while they are lower under the British preferential, they are still measurably higher than on the general and intermediate tariffs.

MR. KELLOCK: I hope my friend has not round 30 any more serious error than that.



plus three cents, and there are variations from then on. In 1906, it is 18 per cent. So it is higher still than it ever was from 1907 to 1908.

THE COMMISSIONER: What item are you dealing

with now on this page?

MR. BRYDIE: The same paragraph. The figures

I am giving are taken from Exhibit No. 600. The

rate is higher now than it was from 1907 to 1908, and

is per cent higher than it was from 1908 to 1909.

Then when we come to cotton fabrics coloured,

in 1907 the duty was 25 per cent; in 1908, 28 per

cent, and in 1909 it was 30 per cent; in 1910, 33 per

cent plus three cents per pound,

and in 1911 36 per cent. These figures, too,

it must be remembered, are British preferential

tariffs and the higher tariffs still apply under the

intermediate and general duties; the specific duties

are still there. I can go on through Exhibit No.

804 in regard to the yarns too. In 1907 the duty

was 17 per cent; in 1908, 18 per cent, and in 1909

the item was split up, and 20's and coarser came

in at 10 per cent and 40's at 12 per cent. In 1909

the duties were raised again. Now they are 14

per cent. But again the same thing applies, that

while they are lower under the British preferential,

they are still measurably higher than on the general

and intermediate tariffs.

MR. BRYDIE: I hope my friend has not found

any more errors upon this.

MR. McRUER: The most serious error in your factum is that it is all wrong in principle.

MR. KELLOCK: I will argue that.

5 MR. McRUER: Before I deal with the application of the customs duties on cotton fabrics I have to deal with something which I approach with a considerable degree of timidity, and that is the customs law that is applicable. I deal with it here for the reason that its application to cotton fabrics affords a good illustration of the effect of the customs laws that have been in force particularly in the five years from 1930 to 1935. To say the least these laws are involved. What can be done under them, or what could be done, and what was done, is also a bit involved.

10

15

THE COMMISSIONER: Perhaps that is purposely the case.

MR. McRUER. I make that a very specific point in my brief, my lord, the fact that it is extremely undesirable to have a customs law that is a mystery, that is not clear, so that the subjects of this form of taxation do not know exactly what the rate of taxation is.

20

25 THE COMMISSIONER: You are quite right there. Any taxing law should be made as clear as possible.

MR. McRUER: And that is the reason I have spent some time in my brief on this very subject of the customs law that was applicable. It has been amended in a degree, but it is not yet clear.

30



Mr. Justice: The most serious error in your

testimony is that it is all wrong in principle.

Mr. Justice: I will agree that.

Mr. Justice: Before I deal with the application

of the customs duties on cotton fabrics I have to

deal with something which I approach with a con-

siderable degree of timidity, and that is the customs

law that is applicable. I deal with it here for

the reason that its application to cotton fabrics

affords a good illustration of the effect of the

customs laws that have been in force particularly in

the five years from 1900 to 1905. To say the least

these laws are involved. What can be done under

them, or what could be done, and what was done, is

also a bit involved.

Mr. Justice: I have been informed

the case.

Mr. Justice: I make that a very specific point

in my brief, my lord, the fact that it is extremely

impossible to get a customs law that is a mystery.

That is not clear, so that the subjects of this

form of taxation do not know exactly what the rate

of taxation is.

The Commissioner: You are quite right there.

Any taxing law should be made as clear as possible.

Mr. Justice: And that is the reason I have made

some time in my brief on this very subject of the

fact that the law is applicable. It has been

in a form, but it is not very clear.

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5 THE COMMISSIONER: Those who are administering the law from day to day and month to month understand it better than you and I do, and when they ask for an amendment they get it, and it is stuck in there. We do not know what it means, but they do.

10 MR. McRUER: They know, but I have said frankly in my brief that I doubt very much if the members of parliament or the government actually knew the effect of the administration of this law, because I do not understand how with their many duties they could possibly know the effect of it. They may, but certainly it has taken me a long time with all the assistance I have been able to get, to master it, and I do not claim to have mastered it yet.

15 Probably my friend Mr. Kellock has.

MR. KELLOCK: I do not know whether you or I is the standard.

20 MR. McRUER: I rather gathered from some things you said in your brief that you had not quite mastered it either.

THE COMMISSIONER: But you both intend to entertain me with it.

25 MR. McRUER: We both intend to advise your lordship on it.

MR. KELLOCK: Not I, my lord.

THE COMMISSIONER: You are satisfied?

30 MR. KELLOCK: I think it can be explained without too much mystery, my lord. It is rather novel to hear the charge that members of parliament pass an



14024

... These are the ...  
... day to day ...  
... when they ...  
... they get it, and it is a task ...  
... we do not know what it means, but they do ...  
... They know, but I have said already ...  
... in my brief that I doubt very much if the members of ...  
... Parliament or the Government actually knew the effect ...  
... of the administration of this law. Because I do not ...  
... understand how with their many duties they could ...  
... possibly know the effect of it. They may, but ...  
... certainly it has taken me a long time with all the ...  
... assistance I have been able to get, to master it, ...  
... and I do not claim to have mastered it yet. ...  
... I suppose my friend Mr. Kellock has ...  
... Mr. Kellock: I do not know whether you or ...  
... I is the standard. ...  
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... you said in your brief that you had not quite mas- ...  
... tered it either. ...  
... The Commissioner: But you both intend to enter- ...  
... Mr. Kellock: We both intend to advise your ...  
... Mr. Kellock: Not I, my lord. ...  
... Mr. Kellock: I think it can be explained ...  
... I think it can be explained ...

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amendment without knowing what it means.

MR. McRUER: I do not think my friend would seriously contend that that has not been done.

5 THE COMMISSIONER: There is a maxim which says that you must attribute to the legislature a perfect knowledge of the law. That is what you are invoking now, Mr. Kellock.

10 MR. KELLOCK: It must have some foundation in fact, my lord, to obtain currency.

MR. McRUER: At any rate we will deal with it as best we can. I am glad my friend thinks he knows the intricacies of it all.

15 MR. KELLOCK: What my hon. friend is referring to, my lord, is a situation which develops when a country is attempting to dump its goods into Canada; that is, to sell its merchandise here below cost. You cannot have a tariff rate of so much per cent set out in the act to which anybody can turn and find it and apply it to a situation of that sort. 20 It is more a question of the proper method.

MR. McRUER: There is no use trying to argue that just now. I understand that point and I do not need to have it explained to me.

25 THE COMMISSIONER: In Mr. McRuier's opinion the law is obscure and it might be clarified, and he is going to try to show us what the obscurities are.

MR. McRUER: More than that, a tax ought not to be imposed by a ruling of a departmental official.

30 THE COMMISSIONER: That is a question of policy



agreement without knowing what it means.

MR. McNEIL: I do not think my friend would

seriously contend that it has not been done.

THE COMMISSIONER: There is a matter which says

that you must contribute to the legislation a perfect

knowledge of the law. That is what you are invoking

now, Mr. McNeil.

MR. McNEIL: It must have some foundation in

fact, my lord, to obtain currency.

MR. McNEIL: At any rate we will deal with it as

best we can. I am glad my friend thinks he knows the

intricacies of it all.

MR. McNEIL: That my hon. friend is referring

to, my lord, is a situation which develops when a

country is attempting to turn its goods into Canada;

that is, to sell its merchandise here below cost.

You cannot have a tariff rate of 30 per cent

set out in the act to which anybody can turn and

find it and apply it to a situation of that sort.

It is more a question of the proper method.

MR. McNEIL: There is no use trying to argue

that just now. I understand that point and I do not

need to have it explained to me.

THE COMMISSIONER: In Mr. McNeil's opinion the

law is a very good one, and it is

going to try to show us what the opportunities are.

MR. McNEIL: More than that, a tax ought not to

be imposed on a country which is a

THE COMMISSIONER: That is a question of policy

for parliament.

5 MR. McRUER: It may be a question of policy, or there may be a recommendation from this commission that that course is an unwise one to adopt. I do not know. At any rate all I intend to do is to bring out the facts, how the tax was applied, and the amount of the tax as compared with the tax that was imposed by parliament.

10 I come to the first section of the Customs Act, section 35.

THE COMMISSIONER: What page of your brief?

MR. McRUER: Page 61, my lord.

15 THE COMMISSIONER: Oh yes, under memorandum of law.

MR. McRUER: Section 35 reads as follows:

20 "Whenever any duty ad valorem is imposed on any goods imported into Canada, the value for duty shall be the fair market value thereof, when sold for home consumption, in the principal markets of the country whence and at the time when the same were exported directly to Canada."

25 2. In the case of importations of goods the manufacture or produce of a foreign country, the currency of which is substantially depreciated, the value for duty shall not be less than the value that would be placed on similar goods manufactured or produced in Great Britain and imported from that country, if such  
30 similar goods are made or produced there.



The Bill.

Mr. McNair: It may be a question of policy, or it may be a question of fact. It may be a question of fact that the duty is an ad valorem one to collect. I do not know. At any rate, all I intend to do is to bring out the facts, how the tax was collected, and the amount of the tax as compared with the tax that was imposed by Parliament.

I come to the first section of the Customs Act, section 25.

Section 25. The Customs Act.

Mr. McNair: Page 61, my lord.

THE COMMISSIONER: Oh yes, under the heading of

Mr. McNair: Section 25 reads as follows:

"Whenever any duty is imposed

on any goods imported into Canada, the value

for duty shall be the fair market value thereof,

when sold for home consumption, in the principal

markets of the country whence and at the time

the goods were imported, or, if the goods were

2. In the case of importations of goods the

manufacturer or producer of a foreign country,

the currency of which is not tentatively depre-

ciated, the value for duty shall not be less

than the value that would be paid on similar

goods manufactured or produced in Great Britain

and imported from that country, if such

similar goods are made or produced there.

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5 3. If similar goods are not made or produced in Great Britain, the value for duty shall not be less than the value of similar goods made or produced in any European country the currency of which is not substantially depreciated.

10 4. The Minister may determine the value of such goods, and the value so determined shall, until otherwise provided, be the value upon which the duty on such goods shall be computed and levied under regulations prescribed by the Minister."

15 THE COMMISSIONER: That has been the general law respecting valuation at least since 1922.

MR. McRUER: It has remained unchanged since 1928, at any rate.

20 THE COMMISSIONER: According to the volume I have here the reference goes back to the Revised Statutes, chapter 48, and an amendment in 1922, so the whole thing goes back at least to 1922.

MR. McRUER: Yes, my lord, my note is that the section has been unchanged since 1928.

25 THE COMMISSIONER: Much earlier than that.

MR. McRUER: Subsection 1 has been in for a great many years. Some of the other sections may have been amended.

30 THE COMMISSIONER: When were the statutes revised previous to 1927 ?



1917

3. If similar goods are not made or pro-  
duced in Great Britain, the value for duty

shall not be less than the value of similar goods  
made or produced in any foreign country the  
currency of which is not substantially depre-  
ciated.

4. The Minister may determine the value of  
such goods, and the value so determined shall,  
unless otherwise provided, be the value upon which  
the duty on such goods shall be assessed and  
levied under regulations prescribed by the

Minister.  
THE COMMISSIONER: That has been the general  
law respecting valuation at least since 1928.  
MR. WILSON: It has remained unchanged since  
1928, at any rate.

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Statutes, chapter 48, and an amendment in 1928, so  
the whole thing goes back at least to 1928.  
MR. WILSON: Yes, my lord, my note is  
that the section has been unchanged since 1928.

MR. WILSON: Supposition I happen in for a  
great many years. Some of the other sections may  
have been amended.

THE COMMISSIONER: When were the statutes

14028

MR. McRUER: In 1906.

MR. KELLOCK: In 1906.

THE COMMISSIONER: Then this goes back to  
1906 with the exception of one amendment made in  
1922 ?

MR. McRUER: Yes. Your lordship will remember  
that there was a suggestion made that some action  
might be taken under this section in regard to  
Japanese goods.

THE COMMISSIONER: Before you discuss what might  
be done, take that subsection 4, which you have just  
read. It gives the minister wide powers:

" 4. The Minister may determine the value  
of such goods ."

What does the word "such" refer to ?

MR. HOOPER: Similar goods made in Great  
Britain or some other European country.

THE COMMISSIONER: No, the first principle about  
the determination of the valuation is the market value  
in the principal markets of the country of origin.

MR. McRUER: Yes, my lord.

THE COMMISSIONER: If there is depreciation  
there, then you have recourse to Great Britain, and  
if the goods are not made in Great Britain, then  
you go to one of the European countries where the  
currency has not substantially depreciated. Then  
the statute goes on:

"The Minister may determine the value of  
such goods."



(1910)

Mr. Speaker: I have the honor to acknowledge the receipt of your letter of the 10th inst. in relation to the proposed amendment to the Customs Act, and in reply to inform you that the same has been referred to the Committee on Customs and Finance, and that they are now considering it.

THE CHAIRMAN: Then this goes back to the Committee on Customs and Finance, and they will report to the House when they have finished their consideration of the amendment made in 1908 with the exception of one amendment made in 1909.

MR. SPEAKER: Yes. Your Lordship will remember that there was a suggestion made that some action might be taken under this section in regard to Japanese goods.

THE CHAIRMAN: I think you should not allow to be done, take that amendment, which you have just need. It gives the Minister wide powers: "4. The Minister may determine the value of goods."

What does the word "value" refer to? MR. SPEAKER: Similar goods made in Great Britain or some other foreign country.

THE CHAIRMAN: No, the first principle about the determination of the valuation is the market value in the principal markets of the country of origin. MR. SPEAKER: Yes, my Lord.

THE CHAIRMAN: If there is depreciation there, then you have recourse to Great Britain, and if the goods are not made in Great Britain, then you go to one of the European countries where the currency has not substantially depreciated. Then the statute goes on:

"The Minister may determine the value of

Does that mean, when there is no other way open to him under the act ?

MR. McRUER: No, he determines the value.

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THE COMMISSIONER: By applying one of these principles ?

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MR. McRUER: By applying these principles that are here. First there must be the fair market value when sold for home consumption in the principal markets of the country whence the goods were exported directly to Canada; and in these other cases the Minister may determine the value applying these principles, and according to such regulations as may be laid down.

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THE COMMISSIONER: The rule in the case is that the value "shall not be less." It does not say how high it may be, but "it shall not be less." That is under subsections 2 and 3.

20

MR. McRUER: Yes, my lord.

THE COMMISSIONER: It shall not be less. Then again, the Minister may determine the value. So that gives the minister pretty wide powers. There is a bottom but there is no top.

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MR. McRUER: I think the proper interpretation or that is that if the value in the country where the goods are produced is above the value in Great Britain -- it is not less than the value in Great Britain -- but they would assess it on the value in the country where the goods are produced even if it has a depreciated currency. I think that is the way

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1914

Does that mean, when there is no other way open to him under the act?

THE CHIEF CLERK: By applying one of these principles?

are here. First there must be the fair market value when sold for home consumption in the principal ports of the country whence the goods were exported directly to Canada; and in these other cases the Minister may determine the value applying these principles, and according to such regulations as may be laid down.

THE CHIEF CLERK: The rule in the case is that the value "shall not be less." It does not say how high it may be, but "it shall not be less." That is under subsections 2 and 3.

THE CHIEF CLERK: It shall not be less. Then again, the Minister may determine the value. So that gives the Minister pretty wide powers. There is a bottom but there is no top.

MR. BRADIE: I think the proper interpretation is that if the value in the country where the goods are produced is above the value in Great Britain -- but they would assess it on the value in a depreciated currency. I think that is the way

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it worked out in practice, is it not, Mr. Hooper ?  
Mr. Hooper says it has only been used once.

THE COMMISSIONER: That confirms what I said at  
the outset. It is very indefinite.

MR. McRUER: It is uncertain.

THE COMMISSIONER: And some practice must have  
grown up under it. There nevertheless is what  
occurs. If you cannot find the value in the home  
market, then you place a value on the goods which is  
not less than the value which would be current in  
Great Britain. It does not say, "not more than,"  
but "not less than", and the Minister may fix the  
value. Then similarly, if the goods are not made in  
Great Britain, again you must have a value which shall  
not be less than the value in some other European  
market, and again the Minister determines the value.

MR. McRUER: It may be that after your lordship  
has studied this, your lordship may be of the opinion  
that strikes me, and that is that the whole customs  
law as embodied in the Customs Tariff Act and the  
Customs x Act needs revision and clarification. It  
is a very heavy task, but at the same time it does  
seem to me that as it stands it is not easy to know  
what can be done and what cannot be done under the  
act, and I think that officials of the customs depart-  
ment themselves as well as importers have some  
difficulties in that regard. However, that is some-  
thing for them to worry about probably, more than us.

THE COMMISSIONER: Except as consumers.



1930

it worked out in practice, is it not, Mr. Hooper?

Mr. Hooper: It has only been used once.

THE COMMISSIONER: That is all right, I said at the outset, it is very tentative.

MR. HOOPER: It is uncertain.

THE COMMISSIONER: And some practice must have grown up under it. There nevertheless is what occurs. If you cannot find the value in the home market, then you place a value on the goods which is not less than the value which would be current in Great Britain. It does not say, "not more than," but "not less than," and the Minister may fix the value. Then similarly, if the goods are not made in Great Britain, even if you must have a value which shall not be less than the value in some other foreign market, and again the Minister determines the value.

MR. HOOPER: It may be that after your Lordship has studied this, your Lordship may be of the opinion that still on me, and that is that the whole system law as embodied in the Customs Tariff Act and the Customs Act needs revision and clarification. It is a very heavy task, but at the same time it does seem to me that as it stands it is not easy to know what can be done and what cannot be done under the Act, and I think that officials of the customs department themselves as well as importers have some difficulties in this regard. I think that it is a very heavy task, but at the same time it does seem to me that as it stands it is not easy to know what can be done and what cannot be done under the Act, and I think that officials of the customs department themselves as well as importers have some difficulties in this regard.

THE COMMISSIONER: Hooper is concerned.

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MR. McRUER: Except as consumers, yes, my lord.  
Then we come to the market value. That is further  
defined by section 36 which in 1928 read as follows:

5 "Such market value shall be the fair market  
value of such goods, in the usual and ordinary  
commercial acceptance of the term, and as sold  
in the ordinary course of trade;"

10 THE COMMISSIONER: I see that we were talking a  
little ahead of time because there is a limitation  
there.

MR. McRUER: Yes. That is a limitation on  
subsection 1 of section 35.

15 THE COMMISSIONER: No, it might be even more than  
that. No, you are quite right; it is the market  
value.

MR. McRUER: Yes. Section 36 reads, in 1928, as  
follows:

20 "Such market value shall be the fair market  
value of such goods, in the usual and ordinary  
commercial acceptance of the term, and as sold  
in the ordinary course of trade; Provided that  
a discount for cash, for duty purposes, shall  
25 not exceed two and one half per cent, and shall  
not be allowed unless it has been actually  
allowed and deducted by the exporter on the  
invoice to the importer."

30 That is really point No.1, until we start with the  
amendments that were made in 1930. Up until 1930



1950

MR. McHUGH: Except as otherwise, yes, my lord.

Then we come to the market value. That is further

defined by section 35 which in 1938 reads as follows:

"such market value shall be the fair market value of such goods, in the usual and ordinary commercial conception of the term, and as sold in the ordinary course of trade;"

THE COMMISSIONER: I see that we were taking a

little ahead of time because there is a limitation

there.

MR. McHUGH: Yes. That is a limitation on

subsection 1 of section 35.

THE COMMISSIONER: No, it might be even more the

limit. No, you are quite right; it is the market

value.

MR. McHUGH: Yes. Section 35 reads, in 1938, as

follows:

"such market value shall be the fair market

value of such goods, in the usual and ordinary

commercial conception of the term, and as sold

in the ordinary course of trade; provided that

a discount for cash, for duty purposes, shall

not exceed two and one-half per cent, and shall

not be allowed unless it has been actually

allowed and deducted by the exporter on the

invoice to the importer."

That is really point No. 1, until we start with the

amendments that were made in 1950. Up until 1950

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there had been provision for a 2½ per cent discount for cash, but that was abolished in 1930, and that gave the Canadian manufacturer a further protection.

5 THE COMMISSIONER: Now you are anticipating.

MR. McRUER: Yes.

THE COMMISSIONER: You have just read the 1928 revision which took into consideration a bona fide discount of 2½ per cent.

10 MR. McRUER: Yes.

THE COMMISSIONER: And you say that was abolished in 1930 ?

15 MR. McRUER: Yes, on September 17, 1930, when section 36 was repealed and the following substituted therefor:

20 " (1) Such market value shall be the fair market value of such goods in the usual and ordinary commercial acceptance of the term, and as sold in the ordinary course of trade, such value in no case to be lower than the selling price thereof to jobbers or whole-  
sellers generally at the time and place of shipment direct to Canada."

25 That is a new principle introduced there.

THE COMMISSIONER: Did it do anything except to abolish the 2½ per cent discount ?

30 MR. McRUER: It made this provision, that the value shall not be less than the selling price to jobbers or wholesalers generally at the time and



1930

There has been provision for a 2 1/2 per cent discount  
for each, but that was abolished in 1930, and that  
were the Canadian Manufacturers' Association.  
The Commission has been established.

THE COMMISSIONER: You have just read the 1930  
revision which took into consideration a four per cent  
discount or 2 1/2 per cent.

THE COMMISSIONER: And you say that was abolished  
in 1930?

Section 84 was repealed and the following substituted

"(1) Such market value shall be the fair  
market value of such goods in the world and  
ordinary commercial transaction of the time,  
and as sold in the ordinary course of trade,  
with value in no case to be lower than the  
selling price thereof to jobbers or whole-  
sellers generally at the time and place of  
shipment direct to Canada."

THE COMMISSIONER: Will it be agreed to amend  
to abolish the 2 1/2 per cent discount?  
Mr. Mowbray: It reads this provision, that the  
value shall not be less than the selling price to  
jobbers or wholesalers generally at the time and

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place of shipment direct to Canada.

THE COMMISSIONER: And substantially the effect would be to abolish the 2½ per cent discount ?

5 MR. McRUER: And abolish special prices to manufacturers.

THE COMMISSIONER: Which prices may be different from the prices to wholesalers or jobbers.

MR. McRUER: Yes, because a man might bring it in for other purposes.

10 THE COMMISSIONER: As raw material ?

MR. McRUER: As raw material. At any rate it had the underlying effect of increasing the protection. Subsection 2 of section 36 reads as follows:

15 " (2) Provided that the value for duty of new or unused goods shall in no case be less than the actual cost of production of similar goods at date of shipment direct to Canada, plus a reasonable advance for selling cost and profit, and the Minister shall be the sole judge of what shall constitute a reasonable advance in the circumstances and his decision thereon shall be final."

20 That is an extremely important section.

25 THE COMMISSIONER: Have you noticed that the subsection 1 that you have read has been repealed ?

MR. McRUER: Oh yes.

THE COMMISSIONER: You know that ?

MR. McRUER: Yes, I am coming to that.

30 THE COMMISSIONER: Subsection 1 having been



price of shipment direct to Canada.

The Commission. And substantially the

effect would be to abolish the 25 per cent duty

Mr. McLaughlin: And would special prices be

The Commission: Which prices may be 50 per

cent the prices for wholesalers or jobbers.

Mr. McLaughlin: Yes, because a man might bring

in for other purposes.

The Commission: Is that material?

Mr. McLaughlin: As new material. At any rate

the underlying effect of increasing the price

tion. subsection 2 of section 25 reads as follows:

"(2) provided that the value for duty of new

or unused goods shall in no case be less than

the actual cost of production of similar

goods at date of shipment direct to Canada,

and the Commission may, in its discretion, allow

credit, and the Commission shall be the sole

judge of what shall constitute a reasonable

advance in the circumstances and the decision

thereon shall be final."

That is an extremely important section.

Mr. McLaughlin: Have you noticed that two

subsection 1 that you have read has been removed?

The Commission: You know that?

Mr. McLaughlin: Yes, I am coming to that.

Mr. McLaughlin: Subsection 1 having been

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repealed, the whole thing is contained now in what used to be subsection 2, which is just as you read it in the present law.

5 MR. McRUER: No, there have been changes there which I deal with on the next page of my brief.

THE COMMISSIONER: Will you read it again while I follow the present wording?

10 MR. McRUER: Yes, my lord. Subsection 2 reads as follows:

" (2) Provided that the value for duty of new or unused goods shall in no case be less than the actual cost of production of similar goods at date of shipment direct to Canada, plus a reasonable advance for selling cost and profit, and the Minister shall be the sole judge of what shall constitute a reasonable advance in the circumstances and his decision thereon shall be final."

20 THE COMMISSIONER: That is in the printed act I have here.

MR. McRUER: But in 1936 that was amended.

25 THE COMMISSIONER: And this does not include the 1936 amendment?

MR. McRUER: No. That is shown on page 63 of my brief.

30 THE COMMISSIONER: This only goes as far as 1924. Is there not an office copy of the act as now in force?



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revealed, the whole thing is contained now in what  
used to be subsection 2, which is just as you read  
it in the present law.

... which I deal with on the next page of my brief.

THE CHIEF CLERK: Will you read it again

while I follow the present wording?

MR. BRYDIE: Yes, my lord. Subsection 2 reads

as follows:

" (2) Provided that the value for duty of  
new or unused goods shall in no case be less  
than the actual cost of production of similar  
goods at date of shipment direct to Canada,  
plus a reasonable advance for selling cost and  
profit, and the Minister shall be the sole  
judge of what shall constitute a reasonable  
advance in the circumstances and his decision  
thereon shall be final."

THE CHIEF CLERK: That is in the printed

cost I have here.

MR. BRYDIE: But in 1936 that was amended.

THE CHIEF CLERK: And this does not include

the 1936 amendment?

MR. BRYDIE: No. It is shown on page 26

of my brief.

THE CHIEF CLERK: This only goes as far as

1934. Is there not an office copy of the act as now

in force?

5  
10  
15  
20  
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MR. McRUER: Here is a consolidated copy,  
but it is not complete to date.

5 THE COMMISSIONER: Here is one going up to  
1934. There ought to be a consolidated copy up to  
1936. This is an office consolidation of the customs  
act and of amendments up to 1934. There must be one  
later than that.

10 MR. HOOPER: I do not know, but I will make  
inquiries. This pamphlet contains all the changes  
and brings the sections dealing with value for duty  
up to date.

THE COMMISSIONER: Since 1934 ?

MR. HOOPER: Yes, my lord, starting on page 4.

15 THE COMMISSIONER: That may be sufficient.

MR. McRUER: The protective effect of this  
change that was made in the act on September 17,  
1930, when the old section 26 was repealed and the  
new one, which I have read, substituted therefor,  
was as follows:

- 20
- (1) The  $2\frac{1}{2}$  per cent cash discount formerly  
allowed might no longer be allowed for regular  
duty purposes.
  - (2) If the manufacturer of textiles abroad  
25 sold to manufacturers at a lower price than to  
jobbers, the value for duty purposes, regular  
and special, must not be less than the selling  
price to jobbers or wholesalers generally.

30 THE COMMISSIONER: And that did, I am told



but it is not complete to date.

THE COMMISSIONER: Here is one going up to

1954. There ought to be a consolidated copy up to

1955. This is an office consolidation of the customs

and one of amendments up to 1954. There must be one

later than that.

MR. HODGINS: I do not know, but I will make

inquiries. This pamphlet contains all the changes

and brings the sections dealing with value for duty

up to date.

THE COMMISSIONER: Since 1954?

MR. HODGINS: Yes, my lord, starting on page 4.

THE COMMISSIONER: That may be sufficient.

MR. HODGINS: The protective effect of this

change that was made in the act on September 14,

1950, when the old section 20 was repealed and the

new one, which I have read, substituted therefor,

was as follows:

(1) The 2 1/2 per cent duty discount formerly  
allowed might no longer be allowed for reman-

(2) If the manufacturer or exporter abroad  
sold to manufacturers at a lower price than to

jobbers, the value for duty purposes, regular  
and special, must not be less than the selling

price to jobbers or wholesalers respectively.

THE COMMISSIONER: And that did, I am told

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by Mr. Hooper, make an actual difference, did it ?

MR. HOOPER: Oh yes.

THE COMMISSIONER: All right, proceed.

MR. McRUER: Continuing to quote from page 63 of  
5 my brief:

(2) The value for duty on new or unused goods  
should in no case be less than the actual cost  
or production of similar goods at the date of  
shipment to Canada, plus a reasonable advance  
10 for selling cost and profit.

I am going to deal at length with the effect of that  
subsection because it really had the effect of in-  
creasing the tariff protection by a large amount.

15 -- The commission took a short recess.

-- On Resuming:

20 THE COMMISSIONER: Very well, Mr. McRuer.

MR. McRUER: In 1934 subsection 1 of section 36  
was repealed, and the following section was added  
as section 36-a. So subsection 1 went out altogether

THE COMMISSIONER: And 36-a came in.

25 MR. McRUER: And 36-a came in, reading as follows:

"The governor in council whenever it is  
deemed expedient to do so, may order that  
excise duties and excise tax in whole or in  
part shall be disregarded in estimating the  
30 value for duty of goods of any kind imported



by Mr. Hooper, there was a great difference, and it is

Mr. Hooper, Mr. Hooper.

Mr. Hooper, Mr. Hooper. All right, proceed.

(2) The value for duty on new or unused goods should in no case be less than the actual cost of production of similar goods at the date of shipment to Canada, plus a reasonable allowance for selling cost and profit.

I am going to deal at length with the effect of that subsection because it really has the effect of increasing the tariff protection by a large amount.

Mr. Hooper, Mr. Hooper.

Mr. Hooper, Mr. Hooper.

Mr. Hooper, Mr. Hooper.

Mr. Hooper: In 1922 subsection 1 of section 26 was repealed, and the following section was added as section 26-a. So subsection 1 went out altogether.

Mr. Hooper: And 26-a came in.

Mr. Hooper: And 26-a came in, reading as follows:

"The Governor in Council whenever it is

deemed expedient to do so, may order that

excise duties and excise tax in whole or in

part shall be disregarded in estimating the

value for duty of goods of any kind imported

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into Canada from any specified country, and may vary or rescind such order."

5 THE COMMISSIONER: That makes it possible to give a preference to one country over another.

MR. McRUER: Precisely, my lord. In the United States they had a consumption tax; in Japan they have a consumption tax, which is in the nature of an excise tax; in Great Britain they have an excise tax on artificial silk amounting to sixpence per pound, and I deal with those a bit later.

THE COMMISSIONER: Where was the lowest?

MR. McRUER: In Great Britain.

15 THE COMMISSIONER: They have an excise tax?

MR. McRUER: An excise tax of sixpence per pound

THE COMMISSIONER: On the goods made at home?

MR. McRUER: In Great Britain.

THE COMMISSIONER: It is a true excise tax?

20 MR. McRUER: It is an excise tax, yes, my lord.

On goods manufactured for export they allow a drawback of one shilling.

THE COMMISSIONER: Yes, that is the usual thing in connection with an excise tax.

25 MR. McRUER: They allow a drawback of one shilling instead of sixpence.

THE COMMISSIONER: Where it says, "The governor in council whenever it is deemed expedient to do so, may order that excise duties and excise tax in whole or in part shall be disregarded," that means excise

30



into Canada from any specified country, and may vary or remain such order."

THE COMMISSIONER: That order is made as to give a preference to one country over another.

MR. BRYDIE: Precisely, my lord. In the United States they had a consumption tax; in Japan they have a consumption tax, which is in the nature of an excise tax; in Great Britain they have an excise tax on spirits with amounting to sixpence per pound, and I deal with those a bit later.

THE COMMISSIONER: Where was the interest?

MR. BRYDIE: In Great Britain.

THE COMMISSIONER: They have an excise tax?

MR. BRYDIE: An excise tax on spirits per pound.

THE COMMISSIONER: On the goods made at home?

MR. BRYDIE: In Great Britain.

THE COMMISSIONER: It is a fine excise tax?

MR. BRYDIE: It is an excise tax, yes, my lord.

On goods manufactured for export they allow a drawback of one shilling.

THE COMMISSIONER: Yes, that is the same thing.

In connection with an excise tax.

MR. BRYDIE: They allow a drawback of one shilling.

THE COMMISSIONER: Where is it made, my lord?

In Canada, my lord. It is a bonded excise tax.

Order that excise duties and excise tax in whole.

THE COMMISSIONER: That is all, my lord.

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duties in the country of origin, not in Canada ?

MR. McRUER: No, in the country of origin.

THE COMMISSIONER: The excise duties and excise tax shall be disregarded in estimating the value. Without this section you add the excise tax and all other excise duties to the value ?

MR. McRUER: Yes, it becomes important in determining what the fair market value of the goods was in the country of export.

THE COMMISSIONER: Yes.

MR. McRUER: When sold for home consumption.

THE COMMISSIONER: Quite, because if you disregard wholly whatever the local excise tax is, you lessen the market value by so much.

MR. McRUER: Yes, my lord.

THE COMMISSIONER: While you are on that, if you do not intend to deal with it later, I would ask you now to what extent has this section been made use of.

MR. McRUER: I am going to deal with that quite elaborately.

THE COMMISSIONER: All right, I will let you do so at your own time.

MR. McRUER: In June 1936 the following section was substituted for what had been subsection 2 of section 36, the underlined portion being the addition to the section.

THE COMMISSIONER: Of section 36, you say.

MR. McRUER: Yes, my lord. The following



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duties in the country of origin, not in Canada?

MR. MORRIS: No, in the country of origin.

THE COMMISSIONER: The excise duties and excise

tax shall be disregarded in estimating the value.

Without this section you add the excise tax and all

other excise duties to the value?

MR. MORRIS: Yes, it becomes important in deter-

mining what the fair market value of the goods was

in the country of export.

THE COMMISSIONER: Yes.

MR. MORRIS: When sold for home consumption.

Wholly without the local excise tax is, you leave

the market value by so much.

THE COMMISSIONER: While you are on that, if you

are not inclined to deal with it later, I would ask you

now to what extent has this section been made use

MR. MORRIS: I am going to deal with that quite

elaborately.

THE COMMISSIONER: All right, I will let

you do so at your own time.

section was substituted for that had been intro-

tion 2 of section 6, the undelivered portion being

the addition to the section.

MR. MORRIS: Yes, my lord. The following

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section was substituted in June 1936, for what had been subsection 2 of section 36:

5 "Section 36. The value for duty of new or unused goods shall in no case be less than the actual cost of production of similar goods at date of shipment direct to Canada, plus reasonable advance for selling cost or profit, -- "

10 Your lordship will remember that as it was before, the following words were included:

and the Minister shall be the sole judge of what shall constitute a reasonable advance in the circumstances and his decision thereon shall be final.

15 THE COMMISSIONER: Yes, and those words are struck out ?

MR. McRUER: They are struck out, my lord, but these words are added:

20 "such advance not to be greater than that which in the ordinary course of business under normal conditions of trade is adequate in the case of goods similar to the particular goods under consideration by manufacturers or pro-  
25 ducers of goods of the same class or kind in the country of export when sold for home consumption."

That is what is substituted for the opinion of the Minister, and that is the basis on which the value is

30



1900

section was subdivided in June 1896, for what had

been subsection 2 of section 36:

"Section 36. The value for duty of new or

unused goods shall in no case be less than the

actual cost of production of similar goods at

date of shipment direct to Canada, plus

reasonable advance for selling cost or

profit, -- "

Your Lordship will remember that as it was before,

the following words were inserted:

and the Minister shall on the sole basis of

what shall be available in respect of the advance

in the circumstances and his detailed opinion

shall be final.

THE COMMISSIONER: Yes, and those words are

still in force.

MR. BOWEN: They are struck out, my Lord, but

these words are added:

and the Minister shall on the sole basis of

what shall be available in respect of the advance

in the circumstances and his detailed opinion

shall be final.

and the Minister shall on the sole basis of

what shall be available in respect of the advance

in the circumstances and his detailed opinion

shall be final.

That is what is substituted for the opinion of the

Minister, and that is the basis on which the value

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now set.

THE COMMISSIONER: That is the bottom, as I said a minute ago, is changed to this now?

5 MR. McRUER: That is section 36, and I wish to deal with the other sections before I consider the action that was taken under this. We have now sections 41 and 42 of the Customs Act to consider. Section 41 of the Customs Act, in 1928, read as follows:

10

"41. Whenever goods are imported into Canada under such circumstances or conditions as render it difficult to determine the value thereof for duty because, -

15 (a) such goods are not sold for use or consumption in the country of production; "

That would be the case, I suppose, of some special kind of goods.

THE COMMISSIONER: Manufactured for export.

20 MR. McRUER: Manufactured for export only.

THE COMMISSIONER: Like we grow most of our wheat in western Canada, for export only.

MR. McRUER: Yes. To continue:

25 "41. )b) a lease of such goods or the right of using the same but not the right of property therein is sold or given; "

I suppose that would apply to machinery.

MR. HOOPER: Shoe machinery.

30 MR. McRUER: Shoe machinery in particular, in respect to which there was a case in our courts some



14037-A

Now say.

The Commission: That is the bottom, as I

said a minute ago, is changed to this now?

Mr. McArthur: That is section 46, and I wish to

deal with the other sections before I consider the

section that was taken under this. We have now

sections 41 and 42 of the Customs Act to consider.

Section 41 of the Customs Act, in 1922, read as

follows:

"41. Whenever goods are imported into

Canada under such circumstances or conditions

as render it difficult to determine the value

thereof for duty purposes, -

(a) such goods are not sold for use

or consumption in the country of production;

That would be the case, I suppose, of some special

kind of goods.

THE COMMISSIONER: Yes, that is the case.

Mr. McArthur: Manifested for export only.

THE COMMISSIONER: Like we grow most of our

wheat in western Canada, for export only.

Mr. McArthur: Yes. To conclude:

"42. (a) a lease of such goods at the time

of leasing the same but not the right of dis-

posal therein is sold or given;

I suppose that would apply to machinery.

Mr. McArthur: Yes, that is correct.

Mr. McArthur: These machines in particular, in

respect to which there was a case in court some

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time ago as to the manner in which it was leased.

Then (c):

"(c) Such goods having a royalty imposed thereon, the royalty is uncertain, or is not from other causes a reliable means of estimating the value of the goods; or,

(d) such goods are usually or exclusively sold by or to agents or by subscription; or

(e) such goods are sold or imported in or under -- "

THE COMMISSIONER: In this office copy which Mr. Hooper gave me paragraph (e) is different.

MR. HOOPER: Mr. McRuer will come to that, my lord. There is an addition.

THE COMMISSIONER: Which is the present law? The one you are reading?

MR. McRUER: No, this section was amended on April 22, 1936, but the one I am reading was in force during the period covered by our argument.

THE COMMISSIONER: You are giving it to me as it was in 1928?

MR. McRUER: Yes. Paragraph (e) reads:

" 41 (e) such goods are sold or imported in or under any other unusual or peculiar manner or conditions;

the Minister may determine the value for duty of such goods, and the value so determined shall, until otherwise provided, be



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time ago as to the manner in which it was issued.

Then (c):

"(c) Such goods having a royalty imposed thereon, the royalty is necessary, or is not from other causes a reliable means of estimating the value of the goods; or,

(d) such goods are usually or exclusively sold by or to agents or by subscription; or  
(e) such goods are sold or imported in lot

Mr. Hooper gave me paragraph (e) in different.

Mr. Hooper: Mr. Hooper will come to that, my

form. There is an addition.

the Commission: What is the present law?

Yes one for the reading?

Mr. Hooper: No, this section was amended on

April 22, 1936, but the one I am reading was in force

during the period covered by our argument.

THE COMMISSIONER: You are giving it to me as it

was in 1936?

Mr. Hooper: Yes. Paragraph (e) reads:

in or under any other and not on goods

subject to conditions:

the manner may determine the value for

date of such goods, and the value so deter-

mined shall, until otherwise provided, be

the value upon which the duty on such goods shall be computed and levied.

2. The Minister shall be the sole judge as to the existence of all or any of the causes or reasons aforesaid."

That gives a pretty wide discretion to the Minister.

This paragraph (e) was repealed on April 22, 1936, and the following substituted therefor:

"(e) such goods by reason of the fact that the circumstances of the trade render it necessary or desirable are sold under conditions or to a class of purchaser under or to which similar goods are not sold by the exporter for home consumption; or such goods are sold or imported in or under any other unusual or peculiar manner or conditions;"

The Minister being the sole judge under those circumstances the section gives him a fairly wide discretion.

Page 14040 follows



100-100-100

the value upon which the duty on such goods shall be computed and levied.

3. The Minister shall be the sole judge as to the existence of all or any of the causes or reasons aforesaid."

That gives a pretty wide discretion to the Minister.

This paragraph (e) was repealed on April 22, 1930,

and the following substituted therefor:

"(e) such goods by reason of the fact that

the circumstances of the trade render it necessary or desirable are sold under conditions or to a class of purchaser under or to which similar goods are not sold by the exporter for home consumption; or such goods are sold or imported in or under any other manner or peculiar manner or conditions;"

The Minister being the sole judge under those circumstances the section gives him a fairly wide discretion.

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Mr. Hooper tells me that the reason for the amendment of Sub-section E. was on account of the fact - for instance, goods would be sold by the manufacturer in the United States direct to wholesalers---

THE COMMISSIONER: Wholesalers where?

MR. McRUER: In the United States. But they would sell in Canada to a national distributor who would again sell to wholesalers in Canada. Therefore it would permit the sale at a lower price to the National distributor in Canada than at the price that the manufacturer sold to the wholesalers in the United States, because the manufacturer himself was the national distributor in the United States.

THE COMMISSIONER: Then I suppose the value taken in this country is what is paid by the Canadian wholesaler? Is that right?

MR. McRUER: No, the value ---

THE COMMISSIONER: Here is what happened: The American manufacturer is his own national distributor and he sells at a certain price to United States jobbers and wholesalers but in selling to Canada he sells to a national distributor here at a certain price which is less than the price that the national distributor sells in Canada to our wholesalers and jobbers. Now then, when the value is for duty purposes am I to assume that the value fixed is that which is paid by our wholesaler or jobber?



Mr. Hooper tells me that the reason for the amendment of sub-section B. was an account of the fact - for instance, goods would be sold by the manufacturer in the United States direct to wholesaler.

THE COMMISSIONER: Wholesalers where?

MR. HOOPER: In the United States. But they would sell in Canada to a national distributor who would again sell to wholesalers in Canada. Therefore it would permit the sale at a lower price to the national distributor in Canada than at the price that the manufacturer sold to the wholesalers in the United States, because the manufacturer himself was the national distributor in the United States.

THE COMMISSIONER: Then I suppose the value taken in this country is what is paid by the Canadian wholesaler? Is that right?

MR. HOOPER: No, the value ---

THE COMMISSIONER: Here is what happened: An American manufacturer is his own national distributor and he sells at a certain price to United States jobbers and wholesalers but in selling to Canada he sells to a national distributor here at a certain price which is less than the price that the national distributor sells in Canada to our wholesalers and jobbers. Now then, when the value is for duty purposes am I to assume that the value fixed is that which is paid by our wholesaler or jobber?

MR. McRUER: No, it would be something less.

MR. HOOPER: No, the value paid by the national distributor, which would be a less price than sold for home consumption in the United States because the manufacturer was selling to a wholesaler over there and he would sell at a higher price than he would to a national distributor in Canada.

THE COMMISSIONER: The effect of the amendment was to increase duty.

MR. McRUER: It was the reverse.

THE COMMISSIONER: It was to lessen it?

MR. McRUER: No, this was passed in 1936. It was taking a rail off the top of the fence.

Then we come to the fixed valuation on page 65, and this again is a matter of very considerable importance in dealing with the protection that has been afforded to the industry in the past:

"Prior to September 1930, Section 43 of the Customs Act applied only to natural products of a class or kind produced in Canada, when imported into Canada.

The sections read as follows:

"If at any time it appears to the satisfaction of the Governor in Council on a report from the Minister, that natural products of a class or kind produced in Canada are being imported into Canada, either on sale or on consignment, under such conditions as prejudicially or injuriously



1931

Q. Now, it would be something like that.

A. Yes, the value paid by the national

distributor, which would be a less price than

paid for home consumption in the United States because

the manufacturer was selling to a wholesaler over

there and he would sell at a higher price than he

would to a national distributor in Canada.

Q. The Commission: The effect of these provisions

was to increase duty.

A. Yes, it was the reverse.

Q. The Commission: It was to lessen it?

A. No, this was passed in 1926. It

was taking a tail off the top of the fence.

Then we come to the fixed valuation on page 85,

and this again is a matter of very considerable

importance in dealing with the protection that has

been afforded to the industry in the past:

"Prior to September 1900, Section 25 of the

Customs Act applied only to natural products

of a class or kind produced in Canada, and

imported into Canada.

The sections read as follows:

"If at any time it appears to the Minister

of the Revenue in Council on a report from the

Minister, that natural products of a class or

kind produced in Canada and being imported into

Canada, are being sold or on consignment, under

any name, or in any manner, or in any

to affect the interests of Canadian producers,  
the Governor in Council may, in any case or class  
of cases, authorize the Minister to value such  
goods for duty, notwithstanding any other  
provisions of this Act, and the value so deter-  
mined shall be held to be the fair market value  
thereof."

THE COMMISSIONER: Now, that was Section 43, was not  
it?

MR. McRUER: That was Section 43 up to 1930.  
It was introduced in 1922. Introduced first in  
1922 and operative - that is in evidence.

THE COMMISSIONER: I notice it refers only to  
"Natural products."

MR. McRUER: Yes.

THE COMMISSIONER: That means agricultural pro-  
ducts?

MR. McRUER: As a matter of fact I think it was  
introduced in the first place to give a measure of  
protection to producers of fruit and vegetables and  
things of that sort that were said to be dumped on  
this market at a time when other fruit and vegetables  
were just coming on in Canada. Take strawberries,  
for instance, I think there was considerable complaint  
from British Columbia that strawberries were being  
brought in from the United States and dumped on the  
Canadian market at lower prices than they ought to be.  
I suppose it was rather a difficult thing to say



to affect the interests of Canadian producers,  
the Government in Council may, in any case of  
of cases, authorize the Minister to value goods  
goods for duty, notwithstanding any other  
provisions of this Act, and the value so deter-  
mined shall be held to be the fair market value  
thereof."

THE GOVERNMENT: Now, that the section is, was not  
it?

MR. MONTAGUE: That was Section 43 up to 1901.  
It was introduced in 1901. Introduced that in  
1902 and operative - that is in evidence.

THE GOVERNMENT: I notice it refers only to  
"natural products."  
MR. MONTAGUE: Yes.

MR. MONTAGUE: As a matter of fact I think it was  
introduced in the first place to give a measure of  
protection to producers of fruit and vegetables and  
things of that sort that were said to be damaged on  
this market at a time when other fruits and vegetables  
were just coming on in Canada. For instance,  
for instance, I think there was considerable complaint  
that strawberries were being  
damaged in the United States and damaged on the  
market at that time. I think it was a difficult time for  
the Canadian producer.

what the price for home consumption for strawberries might be in view of the fact there is the quality of the berries and the quality soon deteriorates if kept very long and all that sort of thing. It really was a section designed to meet an entirely different thing than the protection of manufactured goods. However, in 1930 it was extended to cover all classes of goods.

THE COMMISSIONER: Well, if used to its utmost it could result in a total prohibition.

MR. McRUER: Oh, yes. It was used for that purpose I think.

THE COMMISSIONER: Do you mean now in its original form or in its new form?

MR. McRUER: In its new form, when applied to artificial silk fabrics. I do not know whether it was used for that purpose in its old form or not.

Mr. Hooper says it was intended to keep---

THE COMMISSIONER: That meant it was intended to keep, we will say, United States natural products off our markets during certain seasons.

MR. McRUER: Yes. There was a Tariff Board hearing on this.

THE COMMISSIONER: It was used, was it, as a sort of sliding scale? That is, during certain seasons the tariff would be prohibitive?

MR. HOOPER: The tariff is arranged in that way.

THE COMMISSIONER: During certain months the



what the price for home consumption for home consumption  
might be in view of the fact there is the quality  
of the berries and the quality soon deteriorates in  
kept very long and all that sort of thing. It really  
was a section designed to meet an entirely different  
thing than the protection of manufactured goods.  
However, in 1880 it was extended to cover all classes  
of goods.

THE COMMISSIONER: Well, it used to be the  
it could result in a total prohibition.  
MR. MOORE: Oh, yes. It was used for that pur-  
pose I think.

THE COMMISSIONER: Do you mean now in its original  
form or in its new form?

MR. MOORE: In its new form, when applied to  
artificial silk fabrics. I do not know whether it  
was used for that purpose in its old form or not.  
MR. HOOPER says it was intended to keep---

THE COMMISSIONER: That means it was intended  
to keep, as well as, until after 1880, when it was  
off our markets during certain seasons.

MR. MOORE: Yes. There was a Tariff Board  
hearing on this.

THE COMMISSIONER: It was used, was it, as a  
part of the tariff board? That is, when it was  
the tariff board in 1880?

MR. MOORE: The tariff board was organized in 1880.  
The tariff board was organized in 1880.

tariff is much higher than during the rest of the year.

MR. HOOPER: Yes, but this was additional protection.

5 THE COMMISSIONER: Was it applied only during certain seasons?

MR. HOOPER: Yes.

THE COMMISSIONER: How about the new one?

MR. McRUER: The new one is in general form.

10 THE COMMISSIONER: How has it been used?

MR. McRUER: We had it used on the artificial silk fabrics. We have evidence of it being used on different textiles. There was flannelette, &c, and those exhibits I shall deal with to show how it was used and the extent of the protection that was provided under it.

15 THE COMMISSIONER: It was under that that you had 1.53 duty on a 25¢ article from Japan?

20 MR. McRUER: Yes.

THE COMMISSIONER: Without recourse being had to any surtax or before there was any surtax.

MR. McRUER: Yes, my lord. And it was the valuation under this section that the delegation who visited the ministers was pleading to have restored.

25 THE COMMISSIONER: On the 14th of January last?

MR. McRUER: Yes. Because under the provision of the American Treaty these fixed valuations were withdrawn. Were they withdrawn, Mr. Hooper, on



tariff is much higher than during the rest of the year.  
MR. HURRY: Yes, but this was additional

protection.

MR. HURRY: Yes, but this was additional  
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MR. HURRY: Yes.

THE COMMISSIONER: How about the new duty?

MR. HURRY: The new one is in general form.

THE COMMISSIONER: How has it been used?

MR. HURRY: We have evidence of its being used on  
like fabrics.

MR. HURRY: I shall feel able to show how it  
was used and the extent of the protection that was  
provided under it.

MR. HURRY: It was used on a 30% article from Japan  
had 1.55 duty on a 30% article from Japan.

THE COMMISSIONER: Without recourse being had to  
any statute or before there was any statute.

MR. HURRY: Yes, my lord, and it was the same.

MR. HURRY: The ministers were pleading to have restored.

THE COMMISSIONER: On the 1st of January last?

MR. HURRY: Yes. Because under the provision

of the statute they were allowed to have restored.

MR. HURRY: Were they withdrawn, Mr. Hurry, or

all fixed valuations between Canada and the United States or just on certain things?

MR. HOOPER: Just on certain things.

THE COMMISSIONER: At least they must have been on textiles.

MR. McRUER: Yes.

THE COMMISSIONER: Because automatically then the favour extended to Japan.

MR. McRUER: Yes, on account of the Most Favoured Nation Treaty provision. Now, the provisions are very broad in the sense that the language is such that one could interpret that to be applicable to almost anything at all.

THE COMMISSIONER: Well, there is no doubt about that, if there is goods of any kind---

MR. McRUER: "If at any time it appears to the satisfaction of the Governor-in-Council ---

THE COMMISSIONER: Pardon me, it is on a report from the Minister.

MR. McRUER: Yes. --"on a report from the Minister that natural products of a class or kind produced in Canada are being imported into Canada, either on sale or on consignment, under such conditions as prejudicially or injuriously to affect the interests of Canadian producers...." Now, it seems to me that it does not need to be goods of the same kind that are manufactured in Canada if ---

THE COMMISSIONER: Well then, the expression used



all fixed relations between Canada and the United

States or just on certain things.

MR. BRYCE: Just on certain things.

THE COMMISSIONER: At least they must have been

on territories.

MR. BRYCE: Yes.

THE COMMISSIONER: Yes.

the favour extended to Japan.

MR. BRYCE: Yes, on account of the West

Nation Treaty provision. Now, the provisions are

very broad in the sense that the language is such that

one could interpret that to be applicable to almost any

thing at all.

THE COMMISSIONER: Well, there is no doubt about

that, if there is goods of any kind---

MR. BRYCE: "If at any time it appears to the

Commissioner that it is in the interest of

the Dominion, it is on a report from

the Minister.

MR. BRYCE: Yes. --on a report from the Minister

that natural products of a class or kind produced in

Canada are being imported into Canada, either on sale

or on consignment, under such conditions as prejudicial

or injuriously to affect the interests of Canadian

producers...." Now, it seems to me that it does not

need to be goods of the same kind that are manufactured

in Canada if ---

THE COMMISSIONER: Well then, the expression now

earlier is this - that foreign bananas may decrease the use of local apples.

5 MR. McRUER: Yes. The rain coats introduced may lessen the use of umbrellas or prejudice the use of umbrellas.

MR. KELLOCK: There is fixed value on some kind of rubber goods still as against Japan, fixed values on rubber goods coming from Japan.

10 THE COMMISSIONER: Under this section?

MR. KELLOCK: Yes, so I am instructed.

THE COMMISSIONER: I suppose the benefits which enure to Japan as a result of United States reciprocity would only go so far as concessions made to the United States.

15 MR. McRUER: When my friend says any fixed valuations against Japan, that is not putting it accurately. There are fixed valuations of goods that have not been withdrawn.

20 MR. KELLOCK: Answering your lordship's question, paragraph 4 of the letter to the Japanese Minister, on page 4, has the specific provision:

25 "The values established under authority of Section 43 of the Customs Act will be cancelled on January 1st, 1936, on an extensive list of commodities."

Not all commodities.

30 THE COMMISSIONER: I suppose that list would be the same as the list dealt with because it is by virtue of the Most Favoured Nation Treaty.



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the use of local apples.

Mr. BRIDGE: Yes, but the fact that the use of  
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Mr. BRIDGE: When my friend says a fixed value

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There are fixed values on goods that have not been

Mr. BRIDGE: Regarding your foreigner's position,  
paragraph 4 of the letter to the Japanese Minister,  
on page 4, has the specific provision:

"The values established under authority of  
Section 28 of the Customs Act will be cancelled  
on January 1st, 1930, on an extensive list of

Not all commodities.

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MR. KELLOCK: That would be true.

MR. McRUER: And these fixed valuations that have been put on are valuations that still prevail under the Intermediate tariffs that have not been affected by the Treaty of the United States, but looking at it from a protective point of view the power that is given by Parliament here to the Minister is a very great one, to say the least - not to the Minister but to the Governor-in-Council, rather.

THE COMMISSIONER: Well, when this concession was made to the United States it was then a matter not applied only to Japan but whatever other countries were in the Most Favoured Nation Treaty.

MR. McRUER: Which I think includes all countries but Germany. Is Germany in or out? At any rate certainly includes most of them.

THE COMMISSIONER: Insofar as textiles are concerned when you have dealt with the United States and Japan in addition to the British Dominions you pretty well-- not altogether, though.

MR. McRUER: No, there are some in regard to artificial silk yarns particularly, there are some of the European countries.

THE COMMISSIONER: I think you will find they are almost favoured nations.

MR. KELDOCK: China is not.

MR. McRUER: China does not seem to be particularly favoured as a nation on anything.



Mr. McRae: That would be true.

Mr. McRae: And these things are not

have been put on any valuation that still prevail

under the intermediate tariff that have not been

affected by the Treaty of the United States, but it is

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The Commission: Well, when this concession was

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applied only to Japan but whatever other countries

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Mr. McRae: I think that is all right.

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Mr. McRae: Insofar as tariffs are concerned

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Mr. McRae: No, there are some in regard to

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the United States.

The Commission: I think you will find that

the United States and Japan.

Mr. McRae: I think so.

Mr. McRae: I think that is all right.

Mr. McRae: I think that is all right.

Well the , 1933 the section was further amended  
to limit the effect of the provisions of the section  
to goods not entitled to entry under the British  
Preferential tariff. That is that fixed valuations-  
after the amendment at any rate - could not be put  
on goods that were entitled to entry under the British  
Preferential tariff.

THE COMMISSIONER: You say the tariff was amended?

MR. McRUER: In 1933, and that is rather important  
in respect to something that developed immediately  
afterwards.

THE COMMISSIONER: Just a moment. You have it -  
43 (1).

MR. McRUER: That is at the foot of page 65.

THE COMMISSIONER: It was a substitution, was not it?

MR. McRUER: This is as it reads at any rate.

THE COMMISSIONER: It looks like new sub-section  
1, 43.

MR. McRUER: Yes.

THE COMMISSIONER: You better read it.

MR. McRUER: "If at any time it appears to  
the satisfaction of the Governor-in-Council  
on a report from the Minister that goods of any  
kind not entitled to entry under the British  
Referential Tariff --- "

Those are the important words.

---"or any lower tariffs are being imported into  
Canada either on sale or on consignment, under



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THE CHAIRMAN: You say the tariff was amended?

MR. HOBSON: In 1933, and that is rather important

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THE CHAIRMAN: That a moment. You have it -

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MR. HOBSON: This is as it reads at any rate.

THE CHAIRMAN: It looks like new substitution

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MR. HOBSON: "If at any time it appears to

on a report from the Minister that goods of any

kind not entitled to entry under the British

5 such conditions as 'prejudicially or injuriously  
to affect the interests of Canadian producers  
or manufacturers, the Governor in Council may  
authorize the Minister to fix the value for  
duty of any class or kind of such goods, and  
notwithstanding any other provisions of this  
Act, the value so fixed shall be deemed to be  
the fair market value of such goods.'

10 THE COMMISSIONER: Well now, that replaces the former  
provision?

MR. McRUER: Yes.

15 THE COMMISSIONER: Which says, "Goods of any  
kind." Now you have it instead of goods of any  
kind it is goods of any kind not entitled to entry  
under the British Preferential tariff or any other  
lower tariff. Is there any lower tariff than  
the British Preferential tariff?

20 MR. McRUER: I don't think so.

THE COMMISSIONER: What is the effect of that?

25 MR. McRUER: Mr. Hooper says that there are  
special treaty concessions such as in the case of  
New Zealand. Yes, I think I came across one of those  
just recently.

THE COMMISSIONER: Which is not part of the British  
Preference?

MR. McRUER: Yes, my lord, under special treaties.

30 THE COMMISSIONER: However, there are none outside of  
the British Empire.



such conditions as 'provisionally or informally  
to effect the interests of Canadian producers  
or manufacturers, the Governor in Council may  
authorize the Minister to fix the value for  
duty of any class or kind of such goods, and  
notwithstanding any other provisions of this  
Act, the value so fixed shall be deemed to be  
the full market value of such goods.

The Commission: Well now, that leaves the former  
provisions?

The Commission: Which says, 'Goods of any  
kind.' Now you have it instead of goods of any  
kind it is goods of any kind not entitled to entry  
under the tariff preferential tariff or any other  
lower tariff. Is there any lower tariff than

The Commission: I don't think so.

The Commission: That is the effect of what?

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New Zealand. Yes, I think I come across one of those

The Commission: Which is not part of the tariff

provisions?

The Commission: Yes, that is what I mean.

The Commission: That is what I mean.

MR. HOOPER: Not that I know of.

THE COMMISSIONER: At first sight the change would appear to limit the power of the Governor in Council. What have you to say about it?

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MR. McRUER: Well then, what happened? It is historical now, but it is a matter for protection in the past, the department ruled that it did not alter the valuation that had been previously fixed on goods entitled to entry under the British Preferential Tariff. That is, if there had been a fixed valuation put on prior to this amendment the valuation was continued.

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THE COMMISSIONER: Continued to run notwithstanding the repeal of the sub-section.

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MR. McRUER: Continued to run notwithstanding the repeal. The ruling was contested before the Tariff Board and the Tariff Board ruled the Department was in error in maintaining fixed valuations on British goods.

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THE COMMISSIONER: That is, valuations fell with the disappearance of the Section?

MR. Mcruer: Yes, my lord.

THE COMMISSIONER: Did it stop there?

25

MR. Mcruer: That was not the end of it. The power of the Tariff Board to make this ruling was then contested and reference was made to the Supreme Court of Canada to determine whether the Tariff Board had power to rule on a question of law of that sort and the Supreme Court of Canada held that under the

30



MR. HOPPER: Not that I know of.

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Tariff Board and the Tariff Board ruled the department

was in error in maintaining fixed valuations on British

goods.

THE COMMISSIONER: That is, valuations fall with

the disappearance of the sections?

MR. HOPPER: Yes, my lord.

THE COMMISSIONER: Did it stop there?

MR. HOPPER: That was not the end of it. The

Board of the Tariff Board to which this ruling was sent

submitted the following report to the Governor in Council:

"We have to inform you that the Tariff Board has

been in full and complete agreement with the

Government Board in regard to the ruling.

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powers of the Tariff Board they had no jurisdiction to rule on points of law.

THE COMMISSIONER: They are only a fact-finding body.

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MR. McRUER: Yes, my lord.

THE COMMISSIONER: They are not even all lawyers.

10

MR. McRUER: Then an action was brought in the Exchequer Court of Canada to recover duties over-paid by reason of the fixed valuations and the Exchequer Court decided in favour of the importer.

THE COMMISSIONER: They held as the Tariff Board has held, without authority.

15

MR. McRUER: Yes, the Exchequer Court of Canada agreed with the Tariff Board.

THE COMMISSIONER: That means that the regulations made under the old Section died with the Section.

MR. McRUER: Yes, my lord. But at any rate ---

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THE COMMISSIONER: Sometimes you will find a clause when there is repeal in a new section saying that notwithstanding the repeal of this Section all regulations made under it shall continue in force until replaced.

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MR. McRUER: In the meantime until this litigation was concluded the industries in Canada affected by the fixed valuations had the benefit of protection that really did not exist in law.

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THE COMMISSIONER: Yes, I can quite see that. It is only in the case where somebody actually imported and paid too much duty that person could have relief.



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to rule on points of law.

THE COMMISSIONER: They are only a fact-finding  
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MR. MONROE: Yes, my lord.

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MR. MONROE: In the meantime until this legislation  
was amended the industries in Canada affected by the  
fixed valuations had the benefit of protection that  
really did not exist in law.

THE COMMISSIONER: Yes, I can quite see that.

It is only in the case of a new regulation that the  
law will be amended.

Those that did not import because they found the duty too high they had no relief.

MR. McRuer: They suffered the consequences.

5 THE COMMISSIONER: And that was all due to mistake of law made by the Customs Department?

10 MR. McRuer: That is probably unfair to those engaged in the Department. Mr. Hooper tells me there was an agreement between the British Government and the Canadian Government that those old valuations would continue and that ---

THE COMMISSIONER: That would be only insofar as Great Britain was concerned?

15 MR. McRuer: Yes. That, of course, would not apply to other British dominions.

THE COMMISSIONER: Nor to the rest of the world because you see the old section did not apply only to British Dominions.

20 MR. McRuer: This was only a matter of fixed valuations on British goods. The section as amended continued to apply to all the rest of the world.

THE COMMISSIONER: Yes? I say the old section applied against the whole world including British.

25 MR. McRuer: Yes, and continued to do so after the amendment.

THE COMMISSIONER: But after the amendment, though, under what is now in force, the classes of goods to those entitled to entry under the British Preference  
30 Tariff?



1893

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against the whole world including British.

MR. MURPHY: Yes, and continued to do so after the

amendment.

THE COMMISSIONER: But after the amendment, though

what was in force, the classes of goods

as from British dominions were the same as before.

1893

MR. McRUER: Yes, but on this unofficial protection which was on - it was illegal protection that was maintained under agreement by British Government during certain intervals.

5 THE COMMISSIONER: During certain intervals there was an agreement which the Government made but had no powers to make.

10 MR. McRUER: It was there at the time it was made but had no power to continue it.

THE COMMISSIONER: Somebody must have thought it continued in force notwithstanding repeal of the Statute.

15 MR. HOOPER: Mr. Bennett did.

THE COMMISSIONER: Does not matter who did.

20 MR. McRUER: Governor-in-Council did, because they not only contested the Tariff Board ruling but made reference to the Supreme Court by Order of Governor in-Council to determine whether the Tariff Board had power to make the ruling.

25 THE COMMISSIONER: That was probably properly done because it was necessary to determine what were the powers of the Board. It was ascertained then that the Board could only find facts and not decide points of law. That is one thing but the other thing is this: That in the meantime that this agreement was subsisting it had the effect of keeping out possible  
30 importations on account of the high duty.

MR. McRUER: That is the only point I make.



THE COMMISSIONER: During certain intervals

Q. Now, when you saw the man in the car, did you see him at the time it was made?

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MR. BARNETT: Mr. Barnett did.

MR. DEWEY: Governor-in-Council did, because they

...and it was necessary to determine what were the

maintaining it had the effect of keeping out possible

5 THE COMMISSIONER: The point you make is that  
due to that mistake in law that while those who actually  
paid the duties can get redress, those who did not buy  
because afraid of the duty were out, that is all.  
There was an injurious measure of protection.

MR. McRUER: Yes, my lord.

THE COMMISSIONER: That is a mistake, though,  
that might very well have been made.

10 MR. McRUER: Yes, but it is the fact nevertheless  
that the protection was there.

THE COMMISSIONER: Yes.

15 MR. McRUER: In 1936 the Section was amended by  
adding sub-section 3:

15 "In the case of any value for duty established  
under the provisions of this Section after the  
first day of January, 1936, any interested persons  
may apply to the tariff Board by way of appeal  
20 therefrom. The Tariff Board shall thereupon  
conduct a public enquiry and make its finding  
as to whether, to what extent, and from what period  
such value is required to prevent the importation  
25 of goods into Canada from prejudicially or injurious-  
ly affecting the interests of Canadian producers  
or manufacturers. If no fixed value is found  
by the Tariff Board to be required, or if a lower  
value is found to be appropriate, the finding  
30 of the Tariff Board will become at once effective.  
If appeal is made to the Tariff Board such value



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The Commission: The point you make is that  
due to that mistake in law that while those who  
paid the duties can get redress, those who did not  
became afraid of the duty were out, that is all.  
There was an injurious measure of protection.  
THE COMMISSIONER: That is a mistake, though,  
that might very well have been made.  
MR. MONTGOMERY: Yes, but it is the fact nevertheless  
that the protection was there.  
MR. MONTGOMERY: In 1905 the section was amended by  
adding sub-section 3:  
"In the case of any value for duty established  
on any day of January, 1905, any interested persons  
may apply to the tariff board by way of appeal  
therefrom. The tariff board shall thereupon  
conduct a public enquiry and make its finding  
as to whether, to what extent, and from what period  
such value is required to prevent the importation  
of goods into Canada from, injuriously or  
if affecting the interests of Canadian producers  
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if appeal is made to the tariff board and value

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authorized by the Minister shall in default of any finding by the Tariff Board in the meantime cease to have force and effect upon the expiration of three months from the date of any such application to the Tariff Board."

That again gives relief to those that may feel that they are injured by the fixed value.

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The COMMISSIONER: That appears to be a carrying out of one of the stipulations in this letter with the Japanese Minister.

MR. McRUER: That is correct.

THE COMMISSIONER: Paragraph 5.

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MR. McRUER: There is only one comment I have to make on that and that is the words "Prejudicially or injuriously affecting the interest of Canadian producers or manufacturers". Well, I suppose any importation at all would either prejudicially or injuriously affect the interest of the Canadian producers or manufacturers. The words seem extremely broad. If they were to be interpreted literally in a strict legal way you could get a fixed valuation on almost anything at all, but if the fixed value is to be used to a point to preserve Canadian industry from any prejudicial or injurious affect of competition from abroad it would have to be practically prohibitive.

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THE COMMISSIONER: Yes. It is hard to define these terms. If you could find a definition for the term



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The Commission: Yes. It is hard to define those  
terms. If you could find a definition for the word

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"Reasonable protection" which is so often used, then you could predicate it on that definition, you could then probably arrive at what prejudicially or injuriously affected would be.

5 MR. McRUER: They do use that term, my lord, in a general way.

THE COMMISSIONER: What term?

10 MR. McRUER: Term such as your lordship suggested in the treaty between Canadian and Great Britain in respect to what the Tariff Board is to do. I refer to that in my brief.

15 THE COMMISSIONER: If you could find as a matter of fact what that means - how much protection is reasonable protection or what share, let us say, of the home market makes the condition reasonable, then you could see what would be prejudicial---

20 MR. McRUER: That is the problem that the Tariff Board has to wrestle with in respect to these applications that come before it under the British Treaty but in respect to this clause as it is now - well, if it was administered according to the letter of the clause it would simply mean that fixed valuation  
25 could be put on which would be prohibitive, as was done in the matter of the rayon, I think. And, again, I will have to retrace certain discussions of these sections when I come to deal with what is  
30 done.

THE COMMISSIONER: If you could define fair



1921

"reasonable protection" which is so often used, when  
you could predicate it on that definition, you could  
then probably arrive at what prejudicially or  
injuriously effected would be.

MR. MONTAGUE: They do use that term, my friend, in  
a general way.

THE COMMISSIONER: What is that?

MR. MONTAGUE: Term such as your lordship suggested  
in the treaty between Canada and Great Britain  
in respect to what the Tariff Board is to do. I  
refer to that in my brief.

THE COMMISSIONER: If you could find as a matter  
of fact what that means - how much protection is  
reasonable protection or what share, let us say,  
of the tariff would be prejudicial--  
when you could see what would be prejudicial--

MR. MONTAGUE: That is the question that the Tariff  
Board has to wrestle with in respect to these appli-  
cations that come before it under the British Treaty  
but in respect to this clause as it is now - well,

if it was administered according to the letter of the  
clause it would simply mean that fixed valuation  
could be put on which would be prohibitive, as was

of these sections when I come to deal with what is  
again, I will have to retrace certain discussions

THE COMMISSIONER: If you could define this

competition and unfair competition you might throw light on this.

5 MR. McRUE : They have passed an Act discussing unfair competition at one time and they made a bad hand on trying to define that.

THE COMMISSIONER: If you could define anything precisely you would not require many officials.

10 MR. McRUE: At any rate, as this is worded at the present time it is designed in such a way for the maximum interpretation in favour of the manufacturer with no protection to the consumer, in the strict reading of it. I think that a taxing statute such as this ought to be the other way about. The general  
15 interpretation ought first to be prima facie that it is an extreme measure and there must be a limit within the terms of the statute, not a statute that gives practically an unlimited power of this sort.  
20 And then we come to "Currency valuations", which is another form of protection.

"Section 55 of the Customs Act reads as follows:

25 All invoices of goods shall be made out in the currency of the country whence the goods are imported, or in the currency in which the goods are actually purchased, and shall contain a true statement of the value of such goods;  
30 and in computing the value for duty of such currency the rate thereof shall be such as has





been ordered and proclaimed from time to time  
by the Governor-in-Council who is hereby empowered  
to make such an order."

Now, that gives the Governor-in-Council the power to  
proclaim the rate of exchange.

"The rate so ordered shall be based upon the  
actual value of the standard coins or currency  
of such country as compared with the standard  
dollar of Canada insofar as such comparative  
values are known.

"Whenever the value of a currency has not  
been proclaimed, or whenever there is no fixed  
standard value, or whenever from any cause  
the value of a currency has become depreciated  
or appreciated, there shall be attached to the  
invoice of the goods imported the certificate  
of some Consul or Canadian Trade Commissioner  
resident in such place or country, or the  
certificate of a bank showing the extent of such  
depreciation or appreciation or the true value  
at the time of the exportation of the goods  
of the currency in which such invoice is made  
out as compared with the standard dollar of  
Canada; Provided that the collector may compute  
the value for duty at the rate of exchange  
certified by the bank through which the same is  
drawn as current at the time and place when  
and whence the goods were exported to Canada.



1933

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by the Governor-in-Council who is hereby empowered  
to make such an order."

Now, that gives the Governor-in-Council the power to  
procure the rate of exchange.

"The rate so ordered shall be based upon the  
actual value of the standard coin or currency  
of such country as compared with the standard  
dollar of Canada insofar as such comparative  
values are known."

"Whenever the value of a currency has not  
been procured, or whenever there is no fixed  
standard value, or whenever from any cause  
the value of a currency has become depreciated  
or depreciated, there shall be assessed to the  
invoice of the goods imported the certificate  
of the value of such goods as shown by the  
resident in such place or country, or the  
certificate of a bank showing the extent of such  
depreciation or appreciation or the true value  
at the time of the exportation of the goods  
of the currency in which such invoice is made  
out as compared with the standard dollar of  
Canada: Provided that the collector may compute  
the value for duty at the rate of exchange  
certified by the bank through which the same is  
drawn as current at the time and place when  
the same are shown and reported to him."

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"When the currency value is determined,  
as hereinbefore provided, at the time of entry,  
either by a Consul or Canadian Trade Commissioner's  
certificate or by the certificate of a bank,  
such rate or value shall be final and not open  
to any readjustment by reason of the subsequent  
production of any certificate not corresponding  
in rate or value with that adopted.

All such invoices shall faithfully exhibit  
the transaction between the exporter and importer,  
and contain a true and faithful statement....."

THE COMMISSIONER: "Faithful" I think should be  
"Full".

MR. McRUER: ".....and contain a true and full  
statement of the actual price payable for the  
goods including carton, cases and coverings  
of all kinds and all expenses incident to placing  
the goods in condition, packed ready for shipment  
to Canada, and no such invoice shall state any  
discount other than such as has been actually  
allowed to the importer."

THE COMMISSIONER: Pardon me a moment. The printed  
copy says "shall contain a full and true statement."

MR. McRUER: That has been probably a stenographer's  
error. That section or sub-section is important  
in that it adds to the value of the goods - cartons  
and packing and all that. It is a further protective



"When the currency value is determined,

as hereinafore provided, at the time of entry,

either by a Consul or Canadian Trade Commissioner

certificates or by the certificate of a bank,

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production of any certificate not corresponding

in rate or value with that adopted.

All such invoices shall faithfully exhibit

the transaction between the exporter and importer,

and contain a true and faithful statement....."

The Commission: "Faithful" I think should be

Mr. McNair: ".....and contain a true and full

statement of the actual price payable for the

goods including cartage, cases and coverings

of all kinds and all expenses incident to loading

the goods in condition, packed ready for shipment

to Canada, and no such invoice shall state any

discount other than such as has been actually

allowed to the importer."

The Commission: "When we a moment. The stated

copy says "shall contain a full and true statement."

Mr. McNair: That has been properly a stenographer

error. That section or sub-section is important

in that it adds to the value of the goods - cartons

and packing and all that. It is a further protective

feature.

THE COMMISSIONER: Is that all in the Act?

MR. McRUER: Mr. Hooper tells me it has been there for a long time.

5 THE COMMISSIONER: Yes, goes away back to 1906 any how.

MR. McRUER: In 1933 the following was added to Section 6 of the Customs Tariff Act: I find this is repeated in my brief again but I put it in here because it has to do with currency valuation.

10

"Notwithstanding the provisions of any other law, the Governor in Council may, from time to time and as occasion requires, order and direct, subject to such exceptions as may be made, what shall be the rate of exchange fixed for any currency in computing the value for duty of goods imported into Canada from any place or country the currency of which is depreciated, and in case a sum in Canadian currency less than the invoice value of the goods in the currency of the place or country of export, computed at the rate of exchange so ordered, be paid for the goods, the actual selling price of the goods to the importer shall be regarded as less than the fair market value of the goods when sold for home consumption, and the provisions of this Section shall apply and special or dumping duty shall apply equal to the difference between the

15

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25

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Telegrams

THE COMMISSIONER: Is that all in the 1935?

MR. MORRIS: Mr. Hooper tells me it has been there

for a long time.

THE COMMISSIONER: Yes, goes away back to 1908 and

now.

MR. MORRIS: In 1908 the following was added to

section 8 of the Customs Tariff Act: I think this

is repeated in a later edition but I put it in here

because it has to do with currency valuation.

"Notwithstanding the provisions of any other

law, the Governor in Council may, from time to

time and as occasion requires, order and direct,

subject to such exceptions as may be made, what

shall be the rate of exchange fixed for any

currency in computing the value for duty of goods

imported into Canada from any place or country

the currency of which is designated, and

in case a sum in Canadian currency less than

the invoice value of the goods in the currency

of the place or country of export, computed at

the rate of exchange so ordered, be paid for the

goods, the actual selling price of the goods

to the importer shall be regarded as less than

the fair market value of the goods when sold

for home consumption, and the provisions of this

section shall apply and special or drawing duty

shall apply equal to the difference between the

value of the invoice computed at the current rate of exchange or at the average current rate from time to time fixed by order of the Governor in Council, and the value of such invoice, computed at the rate of exchange for duty so ordered as ~~afore~~ aforesaid, or maybe less than such difference as the Governor in Council may from time to time order and direct;"

So that this gives additional power to levy duties on the difference between the value of the goods at the current rate of exchange and the value of the goods at the proclaimed or fixed rate of exchange.

THE COMMISSIONER: Just a minute. On your page 68, have you reproduced the whole of sub-section 9 (a)?

MR. HOOPER: No, my lord, just that dealing with the currency.

THE COMMISSIONER: There is a great deal more in it.

MR. McRUER: It is all reproduced on page 73 but this is just dealing - not with the dumping duty but the currency value really. I put it under that heading of "Currency valuations". In the first place the industry in Canada has the benefit of the variation between the rate of exchange between Canada and any other country whose currency is at a premium in Canada. That gives a natural protection. When the reverse is true the consumer has not got the reverse. He does not get the benefit that would



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rate of exchange or at the average current rate

from time to time fixed by order of the Governor

in Council, and the value of such invoice,

computed at the rate of exchange for duty so

ordered as aforesaid, or maybe less than

such difference as the Governor in Council may

from time to time order and direct;

so that this gives additional power to levy duties

on the difference between the value of the goods at

the current rate of exchange and the value of the

goods at the proclaimed or fixed rate of exchange.

THE COMMISSIONER: Just a minute. On your page

89, have you reproduced the whole of sub-section 9 (a)?

MR. HOGG: No, my lord, just that dealing with

the currency.

THE COMMISSIONER: There is a great deal more in

10.

MR. HOGG: It is all reproduced on page 78

but this is just dealing - not with the dumping duty

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heading of "currency valuation". In the first place

the industry in Canada has the benefit of the varia-

tion between the rate of exchange between Canada

and any other country whose currency is at a premium

in Canada. That gives a material protection. When

the reverse is true the consumer has not got the

reverse. He does not get the benefit that would

accrue to him through a depreciation of currency in any other country. The manufacturer has the increased protection where there is appreciation; the consumer has the disadvantage of not being able to buy in those countries where currency is appreciated. On the other hand we have the special provisions dealing with the countries where there is depreciated currency.

MR. KELLOCK: They are not automatic, of course.

MR. McRUER: They are not automatic but they are effective when put into effect. Of course they are not automatic. The other protection that the manufacturer gets is automatic. No doubt about that. That takes me to "Special Dumping Duties".

THE COMMISSIONER: We will adjourn now.

--

-- The Commission adjourned at 5 P.M. to resume tomorrow morning at 10.30 o'clock.

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...to him through a depreciation of currency in  
any other country. The manufacturer has the  
increased protection where there is depreciation;  
the consumer has the disadvantage of not being able  
to buy in those countries where currency is appreciated.  
On the other hand we have the special provisions  
dealing with the countries where there is depreciated  
currency.

MR. KELLOCK: They are not automatic, of course.  
MR. MONTGOMERY: They are not automatic but they are  
effective when put into effect. Of course they are  
not automatic. The great protection that the  
manufacturer gets is automatic. No doubt about  
that takes me to "Special Dumping Duties".  
THE CHAIRMAN: We will adjourn now.

-- The Commission adjourned at 5 P.M. to resume  
tomorrow morning at 10.30 o'clock.

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ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S. Whiteley, Secretary,

ONE HUNDRED AND THIRD DAY

(February 4, 1937)

A R G U M E N T

Robert Brydie,  
Official Reporter.



NAVY DEPARTMENT OF THE UNITED STATES

NAVY DEPARTMENT, WASHINGTON, D.C.

NAVY DEPARTMENT

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(February 4, 1937)

NAVY DEPARTMENT

ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

5

A.S. Whiteley, Secretary,

A p p e a r a n c e s :

10

J.C. McRuer, K.C. and )

E. Beauregard, K.C. )

Commission Counsel,

R.L. Kellock, K.C.

For Primary Textiles  
Institute.

C.G. Heward, K.C. )

Aime Geoffrion, K.C. )

and )

For Dominion Textile  
Company.

C.T. Ballantyne, )

15

S.G. Dixon, K.C. ) For Courtaulds Limited.

L.A. Forsyth, K.C.

For Canadian Celanese Ltd.  
and Canadian Silk Products  
Limited.

A.S. Bruneau, K.C. ) For Canadian Cottons,

20

Thos. Tremblay, K.C.

and )

For M.E. Binz Co. Limited.

J.H. Hebert,

Francols Lajoie, K.C.

For Wabasso Cotton Company,

25

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[illegible]

WINTERGARD, VOLLEY, E.A.

( 1.0. 1987, 1.0. 1988 )  
 ( 1.0. 1989, 1.0. 1990 )

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( ) O. G. Howard, K.C.  
( ) Alma Geestlion, K.C.  
( ) and  
( ) O. T. Bellamy

FOR DOMINION TEXTILE  
CORPORATION

for Copyright Clearance Center

D. G. Dixon, N.C.

For complete details

• 9 • X • 504 • 112 • 10 • • • • •

beginning of the 19th century

For Sales and Cotton Company,

U.S. Patent Office

1947-1948 310 1948-1949

Ottawa, Ontario,

Thursday, February 4, 1937.

5 -- The Commission resumed at 10.30 a.m.

- - -

THE COMMISSIONER: Very well, Mr. McRuer.

ARGUMENT BY MR. McRUER, K.C. (continued)

10 My lord, I was proceeding when we adjourned last  
night to deal with the subject of special or dumping  
duties, which is dealt with at page 68 of my brief.  
These duties are provided for under section 6 of the  
15 Customs Tariff Act. Prior to the special session  
of 1930, section 6 of the Customs Tariff Act had a  
limited application, and it read as follows:

"6. In the case of articles exported to  
Canada of a class or kind made or produced  
20 in Canada --"

Of course, these words are extremely important when  
we come to deal with some of the matters that arise  
in the administration of the section:

25 "-- if the export or actual selling price to  
an importer in Canada be less than the fair  
market value of the same article when sold for  
home consumption in the usual and ordinary course  
in the country whence exported to Canada at the  
time of its exportation to Canada, there shall,  
30 in addition to the duties otherwise established,



Ottawa, Ontario,

January 11, 1937.

-- The Commission resumed at 10.30 a.m.

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THE COMMISSIONER: Very well, Mr. McInnes.

STATEMENT BY MR. MCINNES, A.C. (continued)

my hand, I was proceeding when we returned last night to deal with the subject of special or sampling duties, which is dealt with at page 66 of my brief. These duties are provided for under section 6 of the Customs Tariff Act of 1930, section 6 of the Customs Tariff Act had a limited application, and it read as follows:

"6. In the case of articles imported to Canada of a class or kind made or produced in Canada --"

in Canada --"

Of course, these words are extremely important when we come to deal with some of the matters that arise in the administration of the section:

"-- If the export or re-exportation of any article to

an importer in Canada be less than the fair

market value of the same article when sold for

in the country whence exported to Canada, or if the

time of its exportation to Canada, there shall

be levied on the same a duty of 10 per cent.

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be levied, collected and paid on such article, on its importation into Canada, a special duty (or dumping duty) equal to the difference between the said selling price of the article for export and the said fair market value thereof for home consumption; and such special duty (or dumping duty) shall be levied, collected and paid on such article, although it is not otherwise dutiable."

So that it would make no difference whether the article was dutiable or not if it is sold to Canada at less than the fair market value when sold for home consumption. The next paragraph put on a very special limitation:

"Provided that the said special duty shall not exceed fifteen per cent ad valorem in any case;"

That, as your lordship will notice as I go on, was increased in 1930 to fifty per cent of the value of the goods for duty. That involved an entirely different principle as a fundamental basis of fixing the duty. This is a dumping duty not to exceed fifty per cent ad valorem, and we will come to that in a moment.

Then certain exceptions were provided for in the act as it was:

"Provided also that the following goods shall be exempt from such special duty: viz:



be levied, collected and paid on such article,  
 on its importation into Canada, a special  
 duty (or dumping duty) equal to the difference  
 between the said selling price of the article  
 for export and the said fair market value  
 thereof for home consumption; and such special  
 duty (or dumping duty) shall be levied,  
 collected and paid on such article, although  
 it is not otherwise leviable."

So that it would make no difference whether the  
 article was dutiable or not if it is sold to Canada  
 at less than the fair market value when sold for  
 home consumption. The next paragraph put on a very  
 special limitation:

"Provided that the said special duty shall  
 not exceed fifteen per cent ad valorem in any

case, and your Lordship will notice as I go on, was  
 increased in 1930 to fifty per cent of the value  
 of the goods for duty. That involved an entirely  
 different principle as a fundamental basis of fixing  
 the duty. This is a question duty not to exceed fifty  
 per cent ad valorem, and we will come to that in a  
 moment."

Then came in exceptions were provided for in  
 the act as it was:  
 "Provided that the said special duty shall  
 not exceed fifteen per cent ad valorem in any

(a) goods whereon the duties otherwise established are equal to fifty per cent ad valorem."

5 Your lordship will notice the limitation of dumping duties there, that it was evidently considered that if the duties were fifty per cent ad valorem the dumping duty would not apply. Then:

10 "(b) goods of a class subject to excise duty in Canada."

I just mention these exceptions because it emphasizes what I was saying yesterday, and that was that in addition to the tariff increases that have inured to the benefit of or for the protection of Canadian industry, there were a great many statutory changes that increased the protection as well. Then:

15 "(c) sugar refined in the United Kingdom.

(d) binder twine or twine for harvest binders manufactured from New Zealand hemp,"

20 and so on. Subsection 2 is important:

"(2) Excise duties or excise taxes shall be disregarded in estimating the market value of goods for the purposes of special duty when the goods are entitled to entry under the British preferential tariff, Intermediate tariff or any more favourable tariff."

25 That is, excise duties and excise taxes were to be disregarded, there was no discretion.

30 THE COMMISSIONER: That means excise duties in Great Britain?



(a) goods when on the duties otherwise  
established are equal to fifty per cent ad  
valorem."

Your lordships will notice the limitation of grouping  
duties there, that it was evidently considered that  
if the duties were fifty per cent ad valorem the  
limiting duty would not apply. Then:

"(b) goods of a class subject to excise duty  
in Canada."

I am sorry that I cannot say more about it, but  
what I am saying yesterday, and that was that in  
addition to the tariff increases that have inured  
to the benefit of or for the protection of Canadian  
industries, there were a great many statutory changes  
that increased the protection as well. Then:

"(c) sugar refined in the United Kingdom."  
(d) glass wine or twice for nearest British  
equivalent from New Zealand hemp."

and so on. Subsection 2 is in two parts:  
"(e) excise duties or excise taxes shall  
be disregarded in estimating the market value  
of goods for the purposes of special duty  
when the goods are entitled to entry under  
any tariff concession."

That is, excise duties and excise taxes were to be  
disregarded, there was no discretion.

What is the effect of this provision?

about Britain?

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MR. McRUER: Yes, my lord.

THE COMMISSIONER: I'm appraising the fair market value in Great Britain you would not take into account the British excise duties ?

5 MR. McRUER: That is correct, my lord, for special duty purposes. Then (2A):

10 "(2A) Customs duties of the United Kingdom shall be disregarded in estimating the market value of goods for the purposes of special duty when the goods are entitled to entry under the Intermediate tariff, or any more favourable tariff and are bottled in bond in the United and Kingdom/imported direct therefrom."

15 THE COMMISSIONER: The word "bottled" looks rather funny there. There is no doubt what that means.

MR. McRUER: I think that provision was probably of limited application, my lord. Then section 3.

20 "3. 'Export price' or 'selling price' in this section shall be held to mean and include the exporter's price for the goods, exclusive of all charges thereon after their shipment from the place whence exported directly to Canada.

25 4. If at any time it appears to the satisfaction of the governor in council on a report from the Minister of Customs that the payment of the special duty by this section provided for is being evaded by the shipment of goods on  
30 consignment without sale prior to such



Mr. Morris: Yes, my lord.

value in Great Britain you would not take into

account the British excise duties?

Mr. Morris: That is correct, my lord, for special

duties (24)

"(24) Customs duties of the United Kingdom shall

be disregarded in estimating the market value

of goods for the purposes of special duty when

the goods are entitled to entry under the

immediate tariff, or any more favorable

tariff and are bottled in bond in the United

States (25) and (26) (27)

the word "bottled" looks

as if it were a condition of the duty

Mr. Morris: I think that provision was probably

of limited application, my lord. Then section 3.

"3. 'Export price' or 'selling price' in this

section shall be held to mean and include the

exporter's price for the goods, exclusive of

the price thereof exported directly to Canada.

4. In any time it appears to the satisfaction

of the Governor in Council on a report from

the Minister of Customs that the payment of

the special duty by this section provided for

is being evaded by the shipment of goods or

any other means, the Governor in Council may

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shipment, the governor in council may in any case or class of cases authorize such action as is deemed necessary to collect on such goods or any of them the same special duty as if the goods had been sold to an importer in Canada prior to their shipment to Canada."

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That of course is relevant to something that we discussed in Toronto and which I shall have to discuss a little later when I come to deal with the provisions in regard to dumping duty on goods shipped to Canada on consignment. There were some statements made at Toronto which do not I think quite accurately interpret the law in respect to those goods. Then 5:

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" 5. If the full amount of any special duty of Customs is not paid on goods imported the Customs entry thereof shall be amended and the deficiency paid upon the demand of the Collector of Customs."

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That of course gives power, after the goods have been passed through customs, to go back and assess the importer for any duties that have not been paid which ought to have been paid. Then 6:

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"6. The Minister of Customs may make such regulations as are deemed necessary for carrying out the provisions of this section and for its enforcement."



alignment, the government in council may in any case or class of cases determine such action as is deemed necessary in to collect the duties on goods at the time of their importation in Canada prior to their shipment.

"5. The Minister of Customs may make such regulations as are deemed necessary for carrying out the provisions of this section in the following cases:

(a) In the case of goods which are imported in bulk and are to be stored in a warehouse or other place before being shipped, the Minister may require the importer to deposit with the collector of customs a sum of money or to furnish a bond or other security to guarantee the payment of the duties on the goods when they are shipped.

(b) In the case of goods which are imported in small quantities and are to be sold at retail prices, the Minister may require the importer to deposit with the collector of customs a sum of money or to furnish a bond or other security to guarantee the payment of the duties on the goods when they are sold.

(c) In the case of goods which are imported in bulk and are to be stored in a warehouse or other place before being shipped, the Minister may require the importer to deposit with the collector of customs a sum of money or to furnish a bond or other security to guarantee the payment of the duties on the goods when they are shipped.

(d) In the case of goods which are imported in small quantities and are to be sold at retail prices, the Minister may require the importer to deposit with the collector of customs a sum of money or to furnish a bond or other security to guarantee the payment of the duties on the goods when they are sold.

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5 7. Such regulations may provide for the temporary exemption from special duty of any article or class of articles, when it is established to the satisfaction of the Minister of Customs that such articles are not made or sold in Canada in substantial quantities, and offered for sale to all purchasers on equal terms under like conditions having regard to the custom and usage of the trade."

10

That section has some importance when we come to consider some matters that are dealt with in my brief later on in regard to the evidence that was offered to the Commission respecting certain articles like habutai silk which were made up specially for the benefit of the customs authorities.

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Then 8:

20 "8. Such regulations may also provide for the exemption from special duty of any article when the difference between the fair market value and the selling price thereof to the importer as aforesaid, amounts only to a small percentage of its fair market value."

25 Mr. Hooper says that that was prior to 1930, the interpretation of that which allowed five per cent.

THE COMMISSIONER: That was their own working rule?

30 MR. McRULR: Their working rule, yes. Then on September 22, 1930, the section was repealed and



7. Each regulation may provide for the

temporary exemption from special duty of any  
article or class of articles, when it is satis-  
fied to the satisfaction of the Minister of  
Customs that such articles are not made or sold  
in Canada in substantial quantities, and offered  
for sale to all purchasers on equal terms under  
like conditions having regard to the nature  
and usage of the trade."

That section has some importance when we come to  
consider some matters that are dealt with in my  
brief paper on in regard to the evidence that was  
offered to the Commission respecting certain ar-  
ticles like hospital silk which were made up specially  
for the benefit of the customs authorities.

When 5:

"8. The regulations may also provide for  
the exemption from special duty of any article  
when the difference between the fair market  
value and the selling price thereof to the  
importer as evidenced, amounts only to a small  
percentage of its fair market value."

Mr. Hooper says that that was what he had, the  
investigation of which was allowed the other day.  
THE COMMISSIONER: That was their own working

File 7

Mr. Hooper: Their own working file, yes.

on September 24, 1930, the section was repealed and

the provisions of the substituted section are important in that they increased the protective feature of the whole section. The substituted section read:

" 6. (1) In the case of articles exported to Canada of a class or kind made or produced in Canada, if the export or actual selling price to an importer in Canada is less than the fair market value of the same article when sold for home consumption in the usual and ordinary course in the country whence exported to Canada at the time of its exportation to Canada, or is less -- "

then these words are important:

"-- or is less than the fair market value or value for duty thereof as determined under the provisions of section 36 of the Customs Act -- "

Section 36, as we saw yesterday, gave the minister the right to determine what was the cost of manufacturing abroad plus a reasonable cost of selling and profit, and that would be the fair market value for the purpose of the imposition of the special duty by the minister. In the cotton examples that we deal with hereafter that was done. Special duty was imposed on the basis of valuations established under section 36 (2). I continue with section 6 (1):

"-- or is less than the fair market value thereof as fixed by the governor in council



the provisions of the substituted section was impor-  
tant in that they increased the proportion of the  
on the whole section. The substituted section reads:

" 8. (1) In the case of articles exported  
to Canada of a class or kind made or produced  
in Canada, if the export or actual selling  
price to an importer in Canada is less than  
the fair market value of the same article  
when sold for home consumption in the usual  
course of trade in the country of origin,  
exported to Canada at the time of its ex-  
portation to Canada, or is less -- "

then these words are important:

-- or is less than the fair market value or  
the provisions of section 8 of the Customs  
Act -- "

section 36, as we saw yesterday, gave the minister  
the right to determine what was the cost of manu-  
facturing abroad plus a reasonable cost of selling  
and profit, and that would be the fair market value  
for the purpose of the imposition of the special  
duty by the minister. In the cotton example that  
we saw I with minister that was done. Special  
duty was imposed on the basis of valuation estab-  
lished under section 36 (2). I conclude with section

under the provisions of section 37 of the Customs Act, or is less than the value for duty thereof as determined by the Minister under the provisions of paragraphs (a) and (c) of section 41 of the Customs Act, or is less than the fair market value thereof as fixed by the Minister under the provisions of section 43 of the Customs Act -- "

So that we have all those provisions introduced whereby the fair market value, so to speak, is determined for special duty purposes. For instance, the fair market value of artificial silk was \$1.25 per pound under the fixed valuation provided for in section 43. When that was fixed, then special duty was assessable on the difference between the selling price abroad and the \$1.25 a pound, of course subject to the provision I shall mention later in regard to fifty per cent of the value -- that is fifty per cent of the \$1.25 a pound.

THE COMMISSIONER: That is to say, the dumping duty was not to exceed fifty per cent.

MR. McRUER: We come to that in the next paragraph, my lord:

" -- there shall, in addition to the duties otherwise established, be levied, collected and paid on such article, on its importation into Canada, a special or dumping duty."

THE COMMISSIONER: Where is that :



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under the provisions of section 41 of the  
Customs Act, or in less than the value for  
duty thereof as determined by the Minister  
under the provisions of paragraphs (a) and  
(e) of section 41 of the Customs Act, or in  
less than the fair market value thereof as  
determined by the Minister under the provisions of  
section 42 of the Customs Act -- "

so that we have all those provisions introduced whereby  
the fair market value, as to goods, is determined  
for special duty purposes. For instance, the fair  
market value of artificial silk was \$1.25 per pound  
under the fixed valuation provided for in section 42.  
When that was fixed, then special duty was assessable  
on the difference between the selling price abroad  
and the \$1.25 a pound, of course subject to the pro-  
vision I shall mention later in regard to fifty per  
cent of the value -- that is fifty per cent of the  
\$1.25 a pound.

The Commissioner: That is to say, the governing  
duty was not to exceed fifty per cent.  
Mr. McHugh: We come to that in the next cate-  
gory, my Lord:  
"-- there shall, in addition to the duties  
on such articles, on its introduction into  
Canada, a special or preferential duty be  
levied: and there is that:

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MR. McRUER: It is on page 71 of my brier, in the middle of the first paragraph. It goes on:

" -- a special or dumping duty, equal to the difference between the said selling price of the article for export, and the said fair market value thereof or value for duty thereof."

So that the difference is between the selling price abroad and the fair market value either as determined by the sales for home consumption or as determined under any one of these provisions of the Customs Act in sections 36, 37, 41 and 43. Mr. Hooper points out to me too that the provisions of section 55 apply to values that are established under sections 35, 36, 37 and 41.

THE COMMISSIONER: Where do you get all that ?

MR. McRUER: That is from section 55 of the Customs Act, under currency valuations. That is, if there is an established currency valuation -- I will take an illustration for the purposes of argument -- if the currency of the United States was depreciated, and if under section 36 the Minister established a value for duty purposes by ascertaining the cost of production in the United States and adding to it the cost of selling plus a reasonable mark-up for profit, then that would be the United States value. Then if the United States currency is depreciated --

THE COMMISSIONER: In respect to ours ?

MR. McRUER: In respect to ours, and then there



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Mr. McWaters: It is on page 11 of my brief, in

the middle of the first paragraph. It goes on:

"-- a schedule of dumping duty, equal to the  
difference between the said selling price of  
the article for export, and the said selling price  
of the article for duty for duty for duty."

So that the difference in between the selling price  
exported and the price for duty for duty for duty

is the difference between the selling price for export and the price for duty for duty for duty

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is a valuation of the currency similar to the valuation that was put on in regard to the yen. Then the value established by the Minister, the cost of production plus a reasonable amount for selling cost and profit in the United States, would be increased by the increase in the value of the currency established under section 55.

Now I come to the next paragraph, my lord, and this is an extremely important change:

"Provided that the said special duty shall not exceed fifty per cent ad valorem in any case, and the following goods shall be exempt from such special duty.--

So that we increased the fifteen per cent.

THE COMMISSIONER: The ad valorem mentioned there means the value arrived at by all these devious ways that you have been piling up?

MR. McRUER: Oh yes.

THE COMMISSIONER: After you have built up that pyramid then this special dumping duty shall not exceed fifty per cent of that?

MR. McRUER: That is quite right. A very simple case by way of illustration is the \$1.25 a pound for rayon. The total duty that was payable was 62½ cents and rayon was selling in Japan at 25 cents a pound. The valuation put on here was \$1.25. The difference between the two would have been \$1, but it was limited by this to 62½ cents.

But in addition to the increase from fifteen



a valuation of the currency similar to the value-  
the fact that the amount is not fixed.  
the value established by the Minister, the cost of  
procurement plus a reasonable amount for selling  
cost and profit in the United States, could be in-  
creased by the increase in the value of the currency  
established under section 85.

Now I come to the next paragraph, my lord,

and this is an extremely important paragraph:  
"Provided that the said special duty shall  
not exceed fifty per cent ad valorem in  
any case, and the following goods shall  
be exempt from such duty:-"

So that we increased the fifteen per cent.  
The Commissioner: The ad valorem mentioned  
there means the value arrived at by all these  
revisions ways that you have been talking up?

MR. DEWITT: Oh yes.

THE COMMISSIONER: After you have built up

that figure, and then apply duties on that  
and come fifty per cent, is that right?

MR. DEWITT: That is quite right. A very simple

way of putting it is that if the value is \$1.00 and the  
duty is 15 per cent, that was payable was 63 cents  
and duty was selling in Japan at 85 cents a pound.  
The Commissioner: That is correct. The fifteen  
percent is the duty on the value of the goods.  
The Commissioner: That is correct.  
The Commissioner: That is correct.

per cent to fifty per cent we have an increase by all these special methods of valuation for special dumping duty purposes. To continue:

5 " Provided that the said special duty shall not exceed fifty per cent ad valorem in any case, and the following goods shall be exempt from such special duty, viz.:

Goods of a class subject to duty under the Excise Act."

10 Those goods are not subject to this special tax, my lord.

THE COMMISSIONER: It refers to the Excise Act.

MR. McRUER: The excise tax that is paid on liquors.

15 THE COMMISSIONER: And tobaccos?

MR. McRUER: And tobaccos and things of that sort. That is not this tax.

THE COMMISSIONER: No, this is a surtax.

20 MR. McRUER: Yes. It goes on:

"Provided, notwithstanding, that on importations from Australia, under the Australian Trade Agreement Act, 1925, the said special duty shall not exceed fifteen per cent ad valorem in any case."

25 We mentioned yesterday that there were special cases, special treaties. It goes on:

30 "Notwithstanding anything in this Act contained the levying and collection heretofore of special or dumping duty in cases where the fair market



per cent to fifty per cent we have an increase by

all these special methods or valuation for special

charging duty purposes. To continue:

"Provided that the said special duty shall not

exceed fifty per cent ad valorem in any case,

and the following goods shall be exempt

from such special duty, viz.:

Goods of a class subject to duty under

the Excise Act."

These goods are not subject to the special tax,

my lord.

THE COMMISSIONER: It refers to the Excise Act.

MR. MILLER: The excise tax that is paid on

THE COMMISSIONER: And tobacco?

MR. MILLER: And tobacco and things of that

THE COMMISSIONER: No, there is a tariff.

MR. MILLER: Yes. It goes on:

"Provided, notwithstanding, that on importation

from Australia, under the Australian Trade

Agreement Act, 1925, the said special duty

shall not exceed fifteen per cent ad valorem

in any case."

As mentioned yesterday that there were special cases,

special treaties. It goes on:

"Notwithstanding anything in this Act contained

the levying and collection hereof of a special

or charging duty in cases where the tariff schedule

value of goods was determined by the  
Minister, acting or purporting to act under  
the provisions of section 47 A of the Customs  
Act, as enacted by section 3 of chapter 18  
of the Statutes of 1922 (Section forty-three  
of the Customs Act, R.S. 1927) is hereby  
ratified and confirmed."

THE COMMISSIONER: What is that?

MR. McRUER: There is quite a story in connection with it. I remember having quite a bit to do with it at one time.

THE COMMISSIONER: You say that this section 47A is now section 43?

MR. McRUER: Yes, my lord.

THE COMMISSIONER: Well, we know what that is.

MR. McRUER: Yes. At one time they imposed a fixed valuation on fruits and vegetables, and then collected dumping duty.

THE COMMISSIONER: At that time it applied only to natural products?

MR. McRUER: Yes, my lord, but there was no statutory authority for using that fixed valuation as the fair market value for home consumption purposes for the purpose of applying special dumping duties. These provisions were not there then, but they did it just the same, and this is sort of retroactive legislation.

THE COMMISSIONER: That is, they taxed without authority.



value of goods was determined by the  
 Minister, acting on reporting to act under  
 the provisions of section 47 A of the Customs  
 Act, as amended by section 3 of chapter 12  
 of the Statutes of 1932 (section forty-three  
 of the Customs Act, R.S. 1927) is hereby

THE COMMISSIONER OF CUSTOMS

THE COMMISSIONER: What is that?

MR. BROWN: There is quite a story in connection with it. I remember having quite a bit to do with it at one time.

THE COMMISSIONER: You say that this section

47A is now section 48?

MR. BROWN: Yes, my lord.

THE COMMISSIONER: Well, we know what that is.

MR. BROWN: Yes, my lord. At one time it was

a fixed valuation on fruits and vegetables, and then

it was amended.

THE COMMISSIONER: At that time it applied only

to natural products?

MR. BROWN: Yes, my lord, but there was no

restriction against the value of goods imported

as the tariff market value for home consumption purposes

poses for the purpose of applying special duties

there. These provisions were not there then, but

they did it just the same, and this is a sort of

retrospective legislation.

THE COMMISSIONER: That is, they taxed without

restriction.

MR. McRUER: They taxed without authority.

THE COMMISSIONER: And then had it ratified?

MR. McRUER: And then ratified it by this special legislation.

THE COMMISSIONER: What is becoming of our liberties!

MR. McRUER: As a matter of fact I had a brief for a large number of importers to collect back from the government the dumping duty which they had paid under these provisions, but the government would not pay anything. We went along and along, and then finally they passed this act. This sort of legislation is not altogether new in Canada.

THE COMMISSIONER: So it ratified whatever the minister did when he was acting or purporting to act under section 47?

MR. McRUER: Yes, my lord.

Then subsection 2 reads:

" (2) Excise duties or excise taxes shall be disregarded in estimating the market value of goods for the purposes of special duty when the goods are entitled to entry under the British preferential tariff, intermediate tariff or any tariff more favourable than the General tariff.

(3) Customs duties of the United Kingdom shall be disregarded --

That is just the same.



MR. McHUGH: They asked without authority.

THE COMMISSIONER: And then had it ratified?

MR. McHUGH: And then ratified it by this

special legislation.

THE COMMISSIONER: What is the coming of out

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MR. McHUGH: As a matter of fact I had a price

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of legislation is not altogether new in Canada.

THE COMMISSIONER: So it ratified whatever

the minister did when he was acting or purporting

to act as minister?

MR. McHUGH: Yes, my lord.

Then subsection 2 reads:

"(2) Excise duties or excise taxes shall

be disregarded in estimating the market

value of goods for the purposes of special

duty when the goods are entitled to entry

under the British preferential tariff.

intermediate tariff or any tariff more

favourable than the general tariff.

(3) Goods duties of the United Kingdom

shall be disregarded.

That is just the same.

MR. HOOPER: I think it is worded a little differently.

MR. McRUER: Subsection 4 is the same, but subsection 5 is changed:

5       "(5) If at any time it appears to the  
satisfaction of the Minister that the  
payment of the special duty by this section  
provided for is being evaded by the shipment  
10       of goods on consignment without sale prior  
to such shipment, the Minister may in any  
case or class of cases authorize such action  
as is deemed necessary to collect on such  
goods or any of them the same special duty  
15       as if the goods had been sold to an importer  
in Canada prior to their shipment to Canada."

THE COMMISSIONER: That was in before ?

MR. McRUER: It was in, in substantially the  
same language. It gives the Minister power to meet  
20       cases where the privilege of importing on consignment  
is abused. The principle underlying exemption from  
dumping duty on goods imported on consignment is  
this: If they are shipped into Canada on consignment  
25       they are still the property of the exporter in the  
foreign country, and they must be sold in Canada at  
a price that would not be lower than the fair market  
value when sold for home consumption, plus all charges  
of transportation, handling and so on, and the duties  
30       as well. So that there is no injury done to anyone  
if that is carried out. Of course, this provision is



MR. HODGINS: I think it is worth a little

MR. HODGINS: I believe it is two years, but

"(2) It is any time it appears to the

certification of the Minister that the

payment of the special duty by this section

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of goods on a shipment without such duty

to such shipment, the Minister may in any

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THE CHAIRMAN: What was in before?

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duty on goods imported on a shipment is

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they are still the property of the exporter in the

foreign country, and they must be sold in Canada at

a price that would not be lower than the fair market

value when sold for home consumption, plus all charges

or transportation, handling and so on, and the duties

as well. So that there is no injury done to anyone

if that is carried out. Of course, this provision is

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designed to meet the case of people purporting to bring goods in on consignment and who are probably taking advantage of that privilege to sell the goods in Canada on more advantageous terms than the importer could who imported them directly and paid all duties. Then comes subsection 6. There is a change here:

" (6) If at any time it appears to the satisfaction of the Minister that any person owning or controlling or interested in a business in Canada and also in any other country, or any person carrying on a business in any other country and owning or controlling or interested in a business operating in Canada, and by reason thereof is enabled to import goods for further manufacture or assembling or for resale, and while complying with the legal requirements on importation disposes of such imported goods, whether in the form as imported or as further processed, assembled or manufactured, at prices below the duty paid value thereof as entered at Customs plus or including all charges upon the goods after shipment from the place whence exported directly to Canada, including sales, distribution and advertising costs, and plus, if any, the cost of processing, assembling or further manufacturing in Canada, the Minister





5 may declare that goods of such class or  
kind were and are on importation subject  
to an additional special or dumping duty  
not exceeding fifty per cent and authorize  
such action as is deemed necessary for the  
collection thereof."

10 In addition to the action which the Minister may  
take under that section, I submit that the very  
length itself of this long and involved single  
sentence into which the whole section is put is a  
further handicap to importers in Canada. I think  
if they were obliged to read and analyze some of  
these sentences and find out exactly what they  
15 mean, they would throw up their hands and say,  
"I will buy at home." It is all in one long  
sentence taking up nearly half of a page.

20 Then we come to subsection 9 which was added  
in 1933. But first let me say that in 1931 sections  
2 to 18 of the Customs Tariff Act were repealed  
but section 6 was reenacted in the identical form  
in which it was at the time of the repeal. Then  
in 1933 section 6 was amended by adding subsection 9.  
And here again we have a very long sentence, much  
25 involved. What I have said in regard to the real  
difficulty that a lay man importer is confronted  
with in reading a section such as this is important,  
I think. These are taxing statutes, the statutes  
that take away from people their common law rights,  
30 and yet we have a subsection here that I confess I



may declare that goods of such a kind or  
kind were and are on inspection subject  
to an additional special or housing duty  
not exceeding fifty per cent and authorize  
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Subsection (b)(1)

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but section 6 was re-enacted in the identical form  
in which it was at the time of the repeal. Then  
in 1933 section 6 was amended by adding subsection 9.  
And here again we have a very long sentence, much  
involved. What I have said in regard to the rest  
of this Act is that it is very long and involved  
and is written in a way which is not clear.  
I think that the people who drafted this Act  
must have taken away from people their common law rights,  
and yet we have a subsection here that I confess I

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have read time and time again and still find extremely difficult to follow.

5 THE COMMISSIONER: It appears to be all one sentence.

MR. McRUER: One sentence a whole page long. It simply means this, that manufacturers who have an organization and expert legal advise, who have extremely competent experts such as my friends Mr. 10 Hallam and Mr. Berry, and I say without hesitation that I have the greatest admiration for the knowledge which these gentlemen have of the customs tariff, may be able to understand a section such as this, but the man who wants to import in a small way 15 cannot afford to employ men of that sort. These laws ought to be as simple and direct, and as plain as possible, so that a man will not place an order for goods and then find that he is loaded with duties that make the importation a very serious 20 matter for him even to handle the order that he has placed. I think it would be of great commercial benefit to the country if out of this commission a lot of these matters were simplified so that people would know where they stand in regard to 25 their own commercial affairs when they are dealing with foreign exporters.

Page 14095 follows



have been time and time again and still find extremely difficult to follow.

THE CHAIRMAN: It appears to be all one

Mr. McMillan: One sentence a whole page long.

It simply means this, that manufacturers who have an organization and export level advice, who have extremely competent experts such as my friends Mr. Nelson and Mr. Berry, and I say without hesitation that I have the greatest admiration for the know-

ledge which these gentlemen have of the customs tariff, may be able to understand a section such as this,

but the man who wants to import in a small way

cannot expect to employ men of that sort.

It is not to be an advice and best, but as plain

as possible, so that a man will not place an order

for goods and then find that he is loaded with

another lot and even to handle the order that he

has ordered. I think it would be of great service

and benefit to the country if out of this committee

along a lot of these matters were eliminated so that

people would know where they stand in regard to

their own commercial affairs when they are dealing

with the government.

THE CHAIRMAN: Thank you very much.

Now, this section, we will tackle it and see exactly the difficulty that those dependent for their livelihood on importing goods labour under.

5 "Notwithstanding the provisions of any other law, the Governor in council may from time to time and as occasion requires order and direct, subject to such exceptions as may be made, what shall be the rate of exchange fixed for any currency in computing the value for duty of goods imported into Canada from any place  
10 or country the currency of which is depreciated"-- now, if they had stopped there it might have been more simple.

15 "--and in case a sum in Canadian Currency less than the invoice value of the goods in the currency of the place or country of export, computed at the rate of exchange so ordered, be paid for the goods, the actual selling price of the goods to the importer shall be regarded as less than the fair market value  
20 of the goods when sold for home consumption",--

and again they might have stopped there for the purpose of simplicity, but there are two things involved here and whether they mean the same thing or not I don't know.

In one case they talk about the invoice value and in the  
25 other place they talk about the actual selling price.

It says "in case a sum in Canadian currency less than the invoice value of the goods in the currency of the place or country of export, computed at the rate of exchange so ordered"-- that is, they would have to take the  
30 invoice value and compute it at the rate of exchange so ordered and if less amount is paid for the goods "the



Now, this section, we will assume it will be exact  
the difficulty that these documents for their investigation  
on importing goods without under.  
"Notwithstanding the provisions of any other law, the  
Governor in Council may from time to time and as  
occasion requires order and direct, subject to such  
approval as may be required, that any of the goods  
exchange listed for any currency in connection with the  
for duty of goods imported into Canada from any  
or country the currency of which is designated--  
not, if they had stopped there it might have been more  
simple.  
"--and in case a sum in Canadian currency less than  
the invoice value of the goods in the currency of  
the place or country of export, computed at the rate  
of exchange so ordered, be paid for the goods, the  
actual selling price of the goods to the importer  
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so ordered-- that is, they would have to take the  
invoice value and compare it at the rate of exchange so  
ordered and if that sum is paid for the goods--"

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actual selling price of the goods to the importer shall be regarded as less than the fair market value of the goods when sold for home consumption". Now, do they interpret selling price as meaning the same thing as invoice value, Mr. Hooper?

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MR. HOOPER: Yes.

MR. McRUER: "--and the provisions of this Section shall apply and special or dumping duty shall apply equal to the difference between the value of the invoice"-- that is the value of the invoice, again.

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THE COMMISSIONER: Yes, the value of the invoice; that means the invoice price.

MR. McRUER: I take it the invoice price.

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"-- computed at the current rate of exchange or at the average current rate from time to time fixed by order of the Governor in Council and the value of such invoice, computed at the rate of exchange for duty so ordered as aforesaid"-- now, I am pretty nearly lost.

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MR. KELLOCK: I cannot help you here.

25

THE COMMISSIONER: You take the invoice price and then if you are dealing with depreciated currency the rate is fixed by the Governor in Council and that becomes the invoice price,"and the value of such invoice, computed at the rate of exchange for duty so ordered as aforesaid"-- that is ordered by the Order in Council.

MR. McRUER: Yes, but that is the price that is fixed as the fair market value, not fixed as the invoice price.

30

THE COMMISSIONER: It says: "The value of such invoice, computed at the rate of exchange for duty so ordered as



be regarded as less than the fair market value of the goods when sold for home consumption". Now, do they interpret selling price as meaning the same thing as

invoice value, Mr. Hodgson?

MR. HODGSON: Yes.

MR. MCHUGH: "and the provisions of this section shall apply and a duty or drawback duty shall apply

equal to the drawback allowed in the case of the

invoice" -- that is the value of the invoice, and

THE COMMISSIONER: Yes, the value of the invoice;

that means the invoice price.

MR. MCHUGH: I take it the invoice price.

"-- computed at the current rate of exchange or at

the average current rate from time to time fixed by

order of the Governor in Council and the value of

such invoice, computed at the rate of exchange for

duty as ordered in accordance with -- now, I am pretty

nearly lost.

MR. MCHUGH: I cannot help you here.

THE COMMISSIONER: You take the invoice price and the

if you are dealing with depreciated currency the rate

is fixed by the Governor in Council and that becomes the

invoice price, and the value of such invoice, computed

at the rate of exchange for duty as ordered in accordance

with that is ordered by the Governor in Council.

MR. MCHUGH: Yes, but that is the price that is fixed

as the fair market value, not fixed as the invoice price

THE COMMISSIONER: It says: "The value of such invoice

computed at the rate of exchange for duty as ordered in

aforesaid, or may be less than such difference as the Governor in Council may from time to time order and direct", Isn't there a mistake there in printing?

MR. McRUER: Just follow the printed form, Mr. Hooper.

5 THE COMMISSIONER: Of course, it being all one sentence it is hard to know how far back you can go without getting lost.

10 "-- and the provisions of this Section shall apply and special or dumping duty shall apply equal to the difference between the value of the invoice computed at the current rate of exchange or at the average current rate from time to time fixed by order of the Governor in Council and the value of such invoice, computed at the rate of exchange for duty  
15 so ordered as aforesaid, or may be less than such difference as the Governor in Council may from time to time order and direct;"

Is the word "than" proper there?

20 MR. KELLOCK: Yes, my lord.

MR. McRUER: They introduce something in connection with average current rate of exchange.

MR. HOOPER: That was British currency.

25 MR. McRUER: I know, but it is not clear from the statute, to anyone reading the statute, what in the world they are talking about. If I were called upon to advise an importer about what his rights were under this one really has to go to the Department of National Revenue and say "you will tell us what the Act is, interpret  
30 your practice under it".

THE COMMISSIONER: Yes, I fancy that is right. Legis-



stipulated, or may be less than such difference as the  
 Governor in Council may from time to time order and  
 direct." I don't think there is anything

Mr. McLEOD: Just follow the printed form, Mr. Speaker.  
 THE COMMISSIONER: Of course, it being all one sentence  
 it is hard to know how far back you can go without getting  
 lost.

"-- and the provisions of this section shall apply  
 and special or dwelling duty shall apply equal to  
 the difference between the value of the invoice  
 quoted at the current rate of exchange or at the  
 average current rate from time to time fixed by  
 of the Governor in Council and the value of such  
 invoice, computed at the rate of exchange for duty  
 as ordered as aforesaid, or may be less than such  
 difference as the Governor in Council may from time  
 to time order and direct."

Is the word "then" proper there?

Mr. McLEOD: Yes, Mr. Speaker.

Mr. McLEOD: They introduce something in connection

with average current rate of exchange.

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your precise answer is.

THE COMMISSIONER: Yes, I know that is right.

lation drawn up in this way puts you entirely in the hands of those who are collecting the taxes. Then, if they make any mistake Parliament ratifies it later on and you are out anyhow..

5 MR. McRUER: It is not only that the people who pay the taxes should have the right to have the laws clear under which they are being taxed, but people that are engaged in trade and commerce ought to have the clearest sort of rules and regulations of trade and commerce  
10 laid down, not things that just simply drive one dizzy when you attempt to read them or define rights under them, and, as I say, it is a real protective feature, one that may be measured in a far greater degree of dollars and cents than we readily imagine.

15 THE COMMISSIONER: I am sure there is a grammatical mistake there, anyhow. Read that sentence. That word "than" is not right. I think it means "by". "May be less 'by' such difference as the Governor in Council may from time to time order and direct". What can be "less  
20 than such difference"?

MR. McRUER: That is the way it is printed.

THE COMMISSIONER: "--and the value of such invoice, computed at the rate of exchange for duty so ordered  
25 as aforesaid, or may be less than such difference as the Governor in Council may from time to time order and direct;"

I suppose you should take all those words.

30 "--and the provisions of this Section shall apply and special or dumping duty shall apply equal to the



action drawn up in this way puts you entirely in the hands of those who are collecting the taxes. Then, if they make any mistake Parliament rectifies it later on and you are out anyhow.

MR. MONTAGUE: It is not only that the people who pay the taxes should have the right to have the laws drawn under which they are being taxed, but people that are engaged in trade and commerce ought to have the opportunity of rules and regulations of trade and commerce laid down, not things that just simply drive one crazy when you attempt to read them or define rights under them, and, as I say, it is a real protective feature, one that may be measured in a far greater degree of dollars and cents than we readily imagine.

THE CHAIRMAN: I am sure there is a grammatical mistake there, anyhow. Read that sentence. That word "than" is not right. I think it means "by". "May be less by" such difference as the Governor in Council may think fit to order. That is the way it is printed.

MR. MONTAGUE: That is the way it is printed. The Government have the right to order that the Governor in Council may think fit to order, or may be less than such difference as the Governor in Council may think fit to order. That is the way it is printed. I suppose you would like to see the original. I have the original of this bill and will send it to you.

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"difference between the value of the invoice computed at the current rate of exchange or at the average current rate from time to time fixed by order of the Governor in Council, and the value of such invoice, computed at the rate of exchange for duty so ordered as aforesaid, or may be less than such difference"-- now, there is no sense to that.

MR. McRUER: No; I have puzzled over it.

10

THE COMMISSIONER: At least, I cannot see it. Perhaps if I took it away by myself and studied it awhile I might see it. I do not see it sitting here.

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MR. McRUER: In practice what they do, at any rate, as I understand it, is figure the invoice value or selling value of the goods at the price that the foreign exporter has figured. Then, if there is a fixed rate of exchange that value is increased by the rate of exchange as fixed and the difference--

20

THE COMMISSIONER: If the currency of the exporting country is depreciated you bring it up to a parity, which is either the current rate of exchange or an arbitrary rate fixed by the Governor in Council if the Governor in Council has fixed one, either of those two.

MR. McRUER: That is right.

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THE COMMISSIONER: I understand that, but that section goes on to say "or may be less". What may be less?

MR. KELLOCK: The duty may be less.

THE COMMISSIONER: Less than what?

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MR. KELLOCK: You might get a difference of two dollars and the Governor General in Council might say it should be one dollar, my lord.



'Difference between the value of the invoice computed at the current rate of exchange or at the average current rate from time to time fixed by order of the Governor in Council, and the value of such invoice computed at the rate of exchange for duty as ascertained, or may be less than such difference'— now, there is no sense to that.

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THE COMMISSIONER: Less than what?

MR. MORTIMER: You might get a difference of two

(A) would be the result, say

THE COMMISSIONER: How might you get a difference of two dollars?

5 MR. KELLOCK: If you take the invoice value at the proclaimed rate you would get one figure. You have below that the invoice value at the current rate, and you subtract; that is the difference, and the Governor in Council is given authority by the section to say that shall not be the duty but it may be something less than that. At least, that is my understanding.

10 THE COMMISSIONER: You see, when you have an expression "than such difference" that should refer to some preceding word, the context, where the word "difference" is already used.

15 MR. KELLOCK: It says "the difference between" up above.

MR. McRUER: "Equal to the difference"---

THE COMMISSIONER: Where is that?

20 MR. KELLOCK: "-- special or dumping duty shall apply equal to the difference between"--

THE COMMISSIONER: "--between the value"--

25 MR. KELLOCK: "--the value of the invoice computed at the current rate of exchange" -- that would be the bottom line.

30 THE COMMISSIONER: I know, but it is equal to the difference between the value of the invoice computed at the current rate of exchange, if there is no special rate set; that is what it must mean, or it is computed at the rate fixed by the Governor in Council.

MR. KELLOCK: If there were no special rate set there



THE COMMISSIONER: How might you get a difference

two dollars?

MR. KELLOCK: If you take the invoice value of the

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difference between the value of the invoice computed

at the current rate of exchange, if there is no special

rate set; that is what it must mean, or it is computed

at the rate fixed by the Governor in Council.

MR. KELLOCK: If there were no special rate set and

would be no currency dumping duty.

THE COMMISSIONER: "Or may be less than such difference"; that means by such amount as the Governor in Council may fix; is that it?

5 MR. KELLOCK: Yes, my lord; my point is this. You take the invoice value, and if the Governor in Council has set the rate of exchange you figure the top line at that rate and that gives you one figure. Then you figure the invoice value at the current rate and subtract that from the first figure, and that is the  
10 difference, and that is said to be the currency dumping duty under the section, but the Governor General in Council may provide that the currency dumping duty is to be something less than that difference. In other words, taking the proclaimed value of the yen; supposing the  
15 invoice comes in at one yen, my lord, and at the proclaimed rate the value would be 39.5 cents. That is the top line. At the current rate of exchange it would be 29 cents. That is the bottom line. The difference  
20 would be 10.5 cents. Well, under the first part of the section that is the currency dumping duty, but the Governor General in Council may provide that the duty shall be something less than that difference. It may be five or anything else.

25 THE COMMISSIONER: Well, in any event, I think we have heard enough to show that the law is in a very intricate condition.

MR. KELLOCK: It is a long sentence.

30 THE COMMISSIONER: It is not only a long sentence; it is worse than that. There is nothing in it that



There is no emergency during duty.

THE COMMISSIONER: It may be less than such a difference that means by such amount as the Governor in Council

may fix; is that it?

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cannot be reduced to intelligible language.

MR. KELLOCK: I think they could do a lot better job than that.

THE COMMISSIONER: By making three or four different sentences of it.

MR. McRUER: Mr. Hooper suggests that at the time when the British pound was depreciated they took this action and interpreted it in this way, that when the rate of exchange was say \$4.00 as it was as compared with the regular rate of \$4.85 they proclaimed a rate of \$4.40, I think -- the value for duty was proclaimed at \$4.86-2/3. Everything at that time was valued on the basis of the pound being at par.

THE COMMISSIONER: Although it was at \$4.40.

MR. McRUER: Although it was \$4.00. If you came in from England and brought anything with you you paid duty on it at \$4.86 notwithstanding you had paid \$4.00 for your money when you went over there. Then, for dumping duty purposes they had another rate of \$4.40. Now, that is correct. I don't know that that is a correct interpretation, that that was a correct course under the exact wording of this statute.

THE COMMISSIONER: However, I don't think we need take up any more time with it. You have called attention to the condition of it. I think that is all that is necessary.

MR. McRUER: Then we go on to a different principle following the semi-colon --

"and the Governor in Council may order and direct that in all cases of sales or consignments of goods



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MR. MANNING: Although it was \$4.00. If you came in from England and brought anything with you you paid duty on it at \$4.85 notwithstanding you had paid \$4.00 for your money when you went over there. Then, for example, duty purposes they had another rate of \$4.40. Now, that is correct. I don't know that that is a correct interpretation, that that was a correct course under the exact wording of this statute.

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"imported into Canada, where the importer owns, controls or is interested in the business of the exporter, or the exporter owns, controls or is interested in the business of the importer, or the importer and exporter operate under a controlling or holding company, notwithstanding the expressed terms of the sale or consignment, the transaction shall be regarded as a sale and the actual selling price to the purchaser in Canada shall be taken to be the value of the goods in the currency of the place or country of export converted into Canadian currency at the current rate of exchange, or at the average current rate from time to time fixed by order of the Governor in Council, and shall be regarded as less than the fair market value of the goods when sold for home consumption and the provisions of this section shall apply and special or dumping duty shall be deemed to apply equal to the difference between the value of the invoice computed at the current rate of exchange or at the average current rate from time to time fixed by order of the Governor in Council, and the value of such invoice computed at the rate of exchange for duty so ordered as aforesaid, or may be less than such difference as the Governor in Council may from time to time order and direct."

THE COMMISSIONER: I think a lot of this condition arises from the fact that they insist on using those words which have lost their real meaning such as "fair market value". Take fair market value in the home market.



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time to time order and direct."

THE GOVERNOR IN COUNCIL: I think a lot of this condition

arises from the fact that they insist on using those

words which have lost their real meaning such as "fair

average price," "fair value," "fair price," "fair

in the business of the importer, or the importer and  
exporter operate under a controlling or holding com-  
pany, notwithstanding the expressed terms of the sale  
on consignment, the transaction shall be regarded as  
a sale and the actual selling price to the purchaser  
in Canada shall be taken to be the value of the goods  
in the currency of the place or country of export  
converted into Canadian currency at the current rate of  
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such difference as the Governor in Council may from  
time to time order and direct."

We know from common sense what that is. There it is; it is sold at such a price to everybody. They insist on adding all sorts of things to that and still calling it fair market value in the country of origin. If they would drop all that and tell us plainly what they want to add then it would be clearer. As it is you have a duty on something that has no relation to market value any place else. If they would do that then we would know what was what, but they insist on carrying these terms right through. That is what confuses one. They no longer mean anything; they have lost all their original meaning, but still, there they are. "Shall be deemed to be the fair market value"; why don't they simply say "shall be the value on which they shall be taxed".

MR. McRUER: Yes, just the value for duty.

THE COMMISSIONER: Yes; it has lost all relation to market value. The market value in the home country is entirely invisible there.

MR. McRUER: The additional protective feature of this last portion of the section is that special duty was leviable in a case where a foreign exporter owned or controlled a company in Canada where heretofore it was not payable so that it was again adding bricks to the wall, so to speak.

Then, we go to July, 1934, and the section is amended by the insertion of 2A, which bears a still further protective feature. No, that is not right. It is exactly the opposite.

THE COMMISSIONER: It is what?

MR. McRUER: It is a reduction of the protection.



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THE COMMISSIONER: It is what?  
MR. McNEIL: It is a reduction of the protection.

" The Governor in Council, whenever it is deemed expedient to do so, may order that excise duties or excise taxes in whole or in part shall be disregarded in estimating the value for the purpose of special duty"--

5 THE COMMISSIONER: "In estimating the market value"; the word "market" is stuck in there again. That is just what I was saying a moment ago, "in estimating the market value".

10 MR. McRUER: Quite right; "--in estimating the market value for the purpose of special duty of goods of any kind imported into Canada from any specified country, when the same are entitled to entry under the General Tariff, and may vary or rescind such order".

15 THE COMMISSIONER: I wonder what use is made of that power.

MR. HOOPER: That was used in connection with the excise tax in the United States on cotton -- the processing tax.

20 THE COMMISSIONER: That is one example.

MR. HOOPER: That was set up under 36A as the value for duty, and this is allowed out for special duty purposes. Before this went into the law we only had exemption when goods were entitled to entry under the intermediate, British preferential or any tariff more favourable than the general. At this time the United States was under the general tariff.

25 MR. KELLOCK: The same applied to the Japanese excise tax.

30 MR. HOOPER: No, Japan was under the intermediate





tariff, and subsection two would take care of any importations coming from the intermediate countries.

MR. McRUER: Then, in 1936 subsection one was repealed and the following substituted --

5 " In the case of articles exported to Canada of a class or kind made or produced in Canada, if the export or actual selling price to an importer in Canada is less than the fair market value of the same article when sold for home consumption in the usual and  
10 ordinary course in the country whence exported to Canada at the time of its exportation to Canada, or is less than the fair market value or value for duty thereof as determined under the provisions of section  
15 thirty-six of the Customs Act or is less than the value for duty thereof as determined by the Minister under the provisions of paragraphs (a) and (e) of section  
20 forty-one of the Customs Act, or is less than the fair market value thereof as fixed under the provisions of section forty-three of the Customs Act, there shall, in addition to the duties otherwise established, be levied, collected and paid on such article, on its  
25 importation into Canada, a special or dumping duty, equal to the difference between the said selling price of the article for export, and the said fair market value thereof or value for duty thereof; and such  
30 special or dumping duty shall be levied, collected and paid on such article although it is not otherwise dutiable.

Provided that when it is established that any articles though of a class or kind made or produced



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and the following substituted --

" In the case of articles exported to Canada of a  
class or kind made or produced in Canada, if the  
or actual selling price to an importer in Canada is  
less than the fair market value of the same article  
when sold for home consumption in the usual and  
ordinary course in the country whence exported to  
Canada at the time of its exportation to Canada, or  
is less than the fair market value or value for duty  
thereof as determined under the provisions of section  
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for duty thereof as determined by the Minister under  
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Provided that when it is established that any  
articles though of a class or kind made or produced

"in Canada are not offered for sale to the ordinary agencies of wholesale or retail distribution or are not offered to all purchasers on equal terms under like conditions, having regard to the custom and usage of trade, such articles may be exempted from special or dumping duty".

Now, that last proviso was an important exception.

THE COMMISSIONER: I suppose that it means that when the articles imported are not going to compete with the home made article in the open market then the special duties are not applied.

MR. McRUER: Mr. Hooper tells me it was made to cover cases of this sort. A manufacturer of, we will say, a certain type of machine, sold through his own agencies here. He was the only manufacturer of that type of machine here, and the Canadian retailer cannot buy from that manufacturer to sell the machines. He has his own form of distribution in this country, and a retailer goes and wants to buy the machines, such as sewing machines, to sell in his store. He cannot buy them from that manufacturer so that --

THE COMMISSIONER: The manufacturer sells directly to the consumer?

MR. McRUER: The manufacturer has his own system of distribution.

THE COMMISSIONER: To the consumer.

MR. McRUER: To the consumer; so the retailer cannot get the machines, sewing machines, we will say, to sell and has to import them and would have to pay dumping duty under the provisions of this section, but



"in Canada are not offered for sale to the ordinary agencies of wholesale or retail distribution or are offered to all purchasers on equal terms under like conditions, having regard to the custom and usage of trade, such articles may be exempted from special or dumping duty".

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MR. McNEIL: The manufacturer has his own system

THE COMMISSIONER: To the consumer.

MR. McNEIL: To the consumer; so the retailer cannot get the machines, sewing machines, we will say, to sell in his store. He cannot buy them from that manufacturer in this country. He has his own form of distribution in this country, and a retailer goes and wants to buy the machines, such as sewing machines, to sell in his store. He cannot buy them from that manufacturer in this country.

this proviso has relieved that situation. Then--

"Provided that the said special duty shall not exceed fifty per centum ad valorem in any case"--

5 That remains where it was before so that as between prior to 1930 and to-day we have an increase from 15% to 50%. Then, in 1936 subsection 10 was added, and this subsection is important.

10 "(10) For the purposes of this Act articles shall not be deemed to be of a class or kind made or produced in Canada unless so made or produced in substantial quantities; and the Governor in Council may by order in Council provide that such quantities, to be substantial, shall be sufficient to supply a certain percentage of the normal Canadian consumption and may in such order fix such percentage".

15 THE COMMISSIONER: Have any percentages been fixed?

MR. McRUER: Yes, the next paragraph deals with it, my lord, the next paragraph in my brief, on page 75.

20 On July 2, 1936 an Order in Council was passed under the provisions of subsection 10 which reads as follows:

" It is hereby ordered that articles shall not be deemed to be of a class or kind made or produced in Canada unless a quantity sufficient to supply 10 percentum of the normal Canadian consumption of such article, is so made or produced".

25 So that --

THE COMMISSIONER: Are you going to a new topic?

MR. McRUER: Yes.

30 THE COMMISSIONER: We will take a few moments.

-- The Commission adjourned for a short recess.



...this provision has relieved that situation. Then--

"Provided that the said special duty shall not exceed

fifty per centum of value in any case"--

that remains where it was before so that as between

prior to 1955 and to-day we have an increase from 15%

to 50%. Then, in 1955 subsection 10 was added, and the

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"(10) for the purposes of this Act articles shall

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duced in Canada unless so made or produced in sub-

stantial quantities; and the Governor in Council may

by order in Council provide that such quantities,

to be substantial, shall be sufficient to supply a

certain percentage of the normal Canadian consumption

of such articles."

THE COMMISSIONER: Have any percentages been fixed?

MR. BROWN: Yes, the next paragraph deals with it.

My Lord, the next paragraph in my brief, on page 75,

on July 2, 1955 an Order in Council was passed under

the provisions of subsection 10 which reads as follows:

"It is hereby ordered that articles shall not be

deemed to be of a class or kind made or produced in

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articles, is so made or produced."

So that --

THE COMMISSIONER: Are you going to a new topic?

MR. BROWN: Yes.

THE COMMISSIONER: You will then a few minutes.

-- The Commission will now hear the evidence.

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-- On resuming at 12 P.M.

5 MR. McRUER: Before I proceed to deal now, my lord, with these practical applications of the law as exemplified by the Exhibits that have been filed in regard to cotton fabric, I want to summarize the action that has been taken in regard to the exchange rates between Canada and Japan chronologically.

10 The gold parity of the yen with the Canadian dollar was proclaimed at 49.85 in 1918. The proclaimed value was cancelled and immediately re-established at the same value on the 12th of November, 1931. On the 22nd of December, 1931, the current value of the yen went below the par or proclaimed value. Effective 15 the 20th of July 1935, the value of the yen was proclaimed at 41.51.

20 THE COMMISSIONER: That means then, does it, that from 1918 down to July 1935, the value remained at 49.85?

MR. McRuér: Yes, my lord.

THE COMMISSIONER: And then in July, 1935, was reduced to 41.51?

25 MR. McRUER: Yes, or, of course, if the current rate was higher than that ---

THE COMMISSIONER: The current rate prevailed, when it was higher only.

30 MR. McRUER: Yes. This action to fix the value at 41.51 was taken while the Government of Canada was conferring with the Japanese Government with regard



--- on resuming at 12.15.

Mr. Mackenzie: Before I proceed to deal now, my  
 lord, with these particular applications of the law  
 as exemplified by the Exchequer that have been filed  
 in regard to certain topics, I want to summarize the  
 action that has been taken in regard to the exchange  
 rates between Canada and Japan chronologically.

The gold parity of the yen with the Canadian dollar  
 was proclaimed at 44.35 in 1914. The proclamation  
 at the same value on the 15th of November, 1914.  
 On the 22nd of December, 1914, the current value of the  
 yen was proclaimed at 41.81.  
 the 20th of July 1920, the value of the yen was  
 proclaimed at 41.81.

THE COMMISSIONER: That means then, does it,  
 that from 1918 down to July 1920, the value remained  
 at 43.85?

THE COMMISSIONER: And then in July, 1920, was  
 reduced to 41.81?  
 Mr. Mackenzie: Yes, or, of course, if the current  
 rate was higher than that ---

THE COMMISSIONER: The current rate provided,

Yes. This action to fix the value

at 41.81 was given with the Government of Canada

to the basis of valuing goods imported from Japan.  
That was just at the time of the negotiations in  
mid summer of 1935. Then on the 28th ---

5 THE COMMISSIONER: Those negotiations did not  
succeed apparently.

MR. McRUER: No, they did not succeed and the  
surtax went on in Japan just at that time.

THE COMMISSIONER: And our own surtax.

10 MR. McRUER: And our own followed immediately.  
On the 28th of December, 1935, effective the 1st of  
January, 1936, the value for duty purposes of the  
yen was proclaimed at 39½. Effective January 1st,  
1937, the value is at 35 cents.

15 THE COMMISSIONER: It is 35 cents now?

MR. McRUER: Yes.

THE COMMISSIONER: It is regulated now by this  
five-year plan?

20 MR. McRUER: Yes.

Commencing at page 76 of my Brief, my lord, we  
deal with those exhibits that were filed by Mr. Hooper  
in reference to various types of cotton fabrics.  
25 The first exhibits 829 and 835 deal with 40" sheeting,  
48 by 48, 2.85 yards to the pound. Now, I have  
extracted from those exhibits certain information  
that illustrates the effect of the change in the tariffs.  
In the first place before the changes in 1930 the  
30 rate between Canada and the United States was 22½%.  
That is on the general schedule. The change effective



to the basis of valuing goods imported from Japan.  
that was just at the time of the negotiations in  
the summer of 1935. Then on the 1st of

THE COMMISSIONER: Those negotiations did not

MR. BROWN: No, they did not succeed and the

import went on in Japan just at that time.

THE COMMISSIONER: And our own import.

MR. BROWN: And our own followed immediately.

on the 1st of December, 1935, effective the 1st of  
January, 1936, the value for duty purposes of the  
year was provisionally set at 25% effective January 1st,  
1937, the value is at 35 cents.

THE COMMISSIONER: It is 35 cents now?

MR. BROWN: Yes.

THE COMMISSIONER: It is regulated now by this

five-year plan?

MR. BROWN: Yes.

According to page 78 of my list, my lord, we  
deal with these exhibits that were filed by the  
in reference to various types of cotton fabrics.  
The first exhibits are and are dealt with for example,  
as of 48, 50 yards to the pound. Now, I have

extracted from these exhibits certain information

that illustrates the effect of the change in the  
in the first place before the change in 1935 the  
the United States and Japan.

on the 17th December, 1930, brought that up to an  
ad valorem basis of 43%. That is the specific and  
ad valorem rate. The ad valorem amounted to 25%  
and specific to 4 cents a pound. Now, immediately  
5 following that item an Appraiser's Bulletin was issued -  
Not immediately following the items but it comes in  
between those two items. It was issued on the 7th  
of April, 1932. This ---

10 THE COMMISSIONER: Where do you refer to?

MR. McRUER: I refer to it at page 77, my lord.  
I have put in my brief a note just in between those  
two lines, "Appraisers Bulletin" see page 77."

15 THE COMMISSIONER: You say it was on April 7th,  
1932?

MR. McRUER: Yes.

THE COMMISSIONER: It is just below the middle of  
the page.

20 MR. McRUER: Just comes in between 1930 and 6th of  
May, 1932 there. Your lordship will see the increase  
between 43% and 95% ad valorem, that the duty payable  
on the goods worked out at 43%, on the second line;  
on the third line works out at 95%.

25 THE COMMISSIONER: Read what is in your Factum.

MR. Mcruer: I am reading at this point on page 77.

"However, on April 7th, 1932, acting under  
the provisions of Section 36 (2) of the Customs  
30 Act hereinbefore dealt with, the Department appraised  
cotton fabrics as set out in Exhibit 827."



on the 15th December, 1933, between 1933 and up to 1934  
 at value basis of 1933. That is the special and  
 at value rate. The at value amount to 1933

and specific to 4 cents a pound. Now, immediately

but immediately following the items but it comes in  
 between those two items. It was issued on the 15th

of April, 1933. This ---

THE COMMISSIONER: Have you ever seen

MR. ROBERT: I refer to it as page 77, my friend.

I have put in my brief a note that in between those

two lines, "Agriculture Collection" see page 77.

THE COMMISSIONER: You say it was on April 15th,

MR. ROBERT: Yes.

THE COMMISSIONER: It is just before the middle of

the year.

MR. ROBERT: That comes in between 1933 and 34 of

May, 1933 there. Your honorship if I see the interest

between 1933 and 34 at value, that the very same

on the 15th worked out at 43¢, on the second line;

on the third line works out at 43¢.

MR. ROBERT: I am reading it as in your honorship.

MR. ROBERT: I am reading it as in your honorship.

"However, on April 15th, 1933, and under

the provisions of section 85 (3) of the Customs

and Excise Act, the Department will

the Department will

Now, this appraisal---

THE COMMISSIONER: It was supposed then to be based on the actual cost of production of similar goods plus a reasonable advance for selling cost and profits.

5 MR. McRUER: That is right.

THE COMMISSIONER: And then the Minister, which means the Department, shall be the sole judge of what shall constitute a reasonable advance. This bulletin was issued under that authority.

10 MR. McRUER: Yes, on the 7th of April, 1932, and it was amplified on the 13th of September, 1932 by an additional bulletin, Exhibit 828. Your Lordship looking at these bulletins will see that they deal with all different types of cotton piece goods of this sort  
15 by count and picks and sized, etc., and set out there the values that those goods are to be taken at for duty purposes. Now, the effect of the fixing of those values was not only to fix the value for ordinary  
20 duties, that is, the ad valorem duty at the higher price but it then brought into operation the provisions of the Act in regard to dumping duty. That became---

25 THE COMMISSIONER: Pardon me, whatever action was taken you say was taken under the power given by Sub-Section 2 of Section 36?

MR. McRUER: Yes.

30 THE COMMISSIONER: And that is a power merely to determine a reasonable advance for selling cost and profit.



Now, this appears--

THE COMMISSIONER: It was suggested then to be based on the actual cost of production of similar goods plus a reasonable advance for selling cost and profits.

MR. WOODWARD: That is right.

THE COMMISSIONER: And then the Minister, which seems the Department, shall be the sole judge of what shall constitute a reasonable advance. This Bulletin was issued under that authority.

MR. WOODWARD: Yes, on the 7th of April, 1933,

and it was amplified on the 10th of September, 1933

by an additional Bulletin, Exhibit 822. Your Lordship

looking at these Bulletins will see that they deal with all different types of cotton piece goods of this sort by count and picks and sizes, etc., and set out there the values that those goods are to be taken as for duty purposes. Now, the effect of the fixing of

those values was not only to fix the value for ordinary duties, that is, the ad valorem duty at the higher price but it then brought into operation the provisions of the Act in regard to dumping duty. That became--

THE COMMISSIONER: I think you are right. When you say was taken under the power given by section 2 of section 26?

MR. WOODWARD: Yes.

THE COMMISSIONER: And that is a power merely to determine a reasonable advance for selling cost and

MR. McRUER: Well ---

THE COMMISSIONER: I mean that is the only power given to the Department there.

5 MR. McRUER: Well, they determine it and then fix the value for duty.

10 THE COMMISSIONER: I know, but the Act says that the value for duty of new or unused goods shall in no case be less than the actual cost of production of similar goods at date of shipment direct to Canada, plus a reasonable advance for selling cost and profit. Therefore the only latitude the Department has is to state what is a reasonable advance for selling cost and profit. That means in the country of origin.

15 MR. McRUER: And to find the cost of production.

20 THE COMMISSIONER: After they have found the cost of production then they add a reasonable amount for selling cost and profit, but it says, "The minister shall be the sole judge of what shall constitute a reasonable advance in the circumstances...". So when the Department is fixing some value under that they must be able to say: Now, we consider this a reasonable advance over the cost of production for selling cost and profit in the country of origin. How far do they go under it?

25 MR. McRUER: Well, the effect was that it increased the duties on an ad valorem basis of --- well, 30 I would not say the sole effect of it but after it came out the duties are increased from 43% to 95%,



MR. HENRY: Well ---

MR. HENRY: I mean that is the only power

that is in the hands of the

MR. HENRY: Well, they determine it and then

the value of the

MR. HENRY: I know, but the fact says that

the value for duty of new or unused goods shall be

no more be less than the actual cost of production

of similar goods at the time of shipment direct to Canada,

plus a reasonable advance for selling cost and profit.

Therefore the only latitude the Department has is to

state what is a reasonable advance for selling cost

and profit. That means in the country of origin.

MR. HENRY: And to find the cost of production

the Department has to find out

cost of production then they add a reasonable margin

for selling cost and profit, but it says, "the

minister shall be the sole judge of the value of

articles a reasonable advance in the circumstances..."

So when the Department is fixing some value under

that they must be able to say: Now, we consider this

a reasonable advance over the cost of production

for selling cost and profit in the country of origin.

How far do they go under it?

MR. HENRY: Well, the effect was that it increases

the duties on an ad valorem basis of --- Well,

I think the effect was that it increases

some of the duties are increased from 25 to 30,

taken on an ad valorem basis.

THE COMMISSIONER: How does the Department in Ottawa determine what is reasonable profit for goods made in Japan on Japanese goods?

5 MR. McRUER: Well, Mr. Hooper says they don't. This was done in the United States.

THE COMMISSIONER: Or the United States?

10 MR. McRUER: But the impractical thing of this whole thing is this: In the first place we have had some experience in this Commission in efforts to determine the cost of production. Now, we were dealing with the industry here with the power of a Royal Commission to subpoena witnesses, with account-  
15 ants engaged for the purpose of going to the mills and the mills really being unable to tell us themselves what the cost of production of different fabrics are. They have a sort of cost of production. I deal with that in my Factum later on. But how in the world  
20 customs officials can go to the United States and determine their cost of production I don't know, and I don't believe they know. In addition to that, what costs of production? Whose costs of pro-  
25 duction? When these valuations were made it was one set valuation applicable to all goods coming from the United States irrespective of whether they came from an efficient or inefficient mill. It was  
30 one and the same - irrespective of whether it was a mill in the north or the south, we have the one thing



taken on an ad valorem basis.

THE COMMISSIONER: How does the Department in

Ottawa determine what is reasonable? Would the goods

made in Japan or Japanese goods?

MR. ROBERT: Well, Mr. Hooper says they don't.

This was done in the United States.

THE COMMISSIONER: Or the United States?

MR. ROBERT: But the important thing of this

whole thing is this: in the first place we

are not now engaged in any investigation of

to determine the cost of production. Now, we were

dealing with the industry here with the power of a

Royal Commission to subpoena witnesses, with power

was engaged for the purpose of going to the mills

and the mills would have been well in position

and we would have been in a position to go to the mills

and we would have been in a position to go to the mills

and we would have been in a position to go to the mills

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and we would have been in a position to go to the mills

the one cost of production. It cannot be the cost of production of those goods because there cannot be one cost of production in the United States. One thing, there is not one cost of production because if it is said time and time again the cost of production in the north is very much greater than in the south. It must be that the cost of production in one mill is very much different than the cost of another. Now, what does the Act mean when it says they may determine the cost of production of the goods abroad and add to it a reasonable amount for selling cost and profit. What is a reasonable amount for selling cost and profit? What is a reasonable profit? It may be perfectly reasonable for one manufacturer, but another manufacturer may not consider it reasonable. If we are to believe some of the representations in one of the Briefs filed here as to reasonable addition for amount of profit it is --- well, at least what Sir Herbert Holt considered himself as very ample profit or very good profits, with another one it might be quite different. So that coming back to it again dealing with taxation legislation and have something that is so indefinite as that, it is not quite consistent with the ordinary ideas of taxation. Now, I can just take some illustrations your lordship asked me ---.

THE COMMISSIONER: There is something I have in my mind there. This section 36, which you are referring to, it is divided into two parts.



the cost of production. If cannot be the cost  
of production of those goods because there cannot be  
one cost of production in the United States. One  
thing, there is not one cost of production because  
it is said time and time again the cost of production  
in the north is very much greater than in the south.  
It must be that the cost of production in one mill is  
very much different than the cost of another.  
What does the Act mean when it says they may determine  
the cost of production of the goods spread and add  
to it a reasonable amount for selling cost and profit.  
That is a reasonable amount for selling cost and profit?  
What is a reasonable profit? It may be perfectly  
reasonable for one manufacturer, but another manufacturer  
may not consider it reasonable. If we are to believe  
some of the representations in one of the articles filed  
here as to reasonable addition for amount of profit  
it is -- well, at least what Mr. Herbert Wolf said  
himself as very ample profit or very good profits,  
with another one it might be quite different. So  
that makes sense in the whole thing. The whole thing  
legislation and have something that is so indefinite  
as that, it is not quite consistent with the ordinary  
ideas of taxation. Now, I can just take some  
illustrations your lordship asked me ---  
The Commission says: There is something I have in  
my mind, and I will mention it, and I will say  
that it is a very good illustration of the whole thing.

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It says the value for duty shall not be less than the actual cost of production plus a reasonable advance for selling cost and profit and then it says that the Minister shall be the sole judge insofar as the reasonable advance only is concerned. Does not say shall be the sole judge so far as value is concerned. So that adds to the confusion.

MR. McRUER: I think it was rather interpreted that he was the sole judge of the result anyway.

THE COMMISSIONER: Well, it does not say so. It says: "the minister shall be the sole judge of what shall constitute a reasonable advance in the circumstances....". It adds confusion to the authenticity of the cost of production. If it said that the minister shall be the sole judge of both what is the cost of production and what is reasonable advance, then the door would be shut. Supposing you are confronted with a fixed cost of production which you as an importer see at once is five and ten times more than any actual cost of production would be, what do you do? The section does not say the Minister is the sole judge of that. It says the sole judge only of the advance on that.

MR. McRUER: There is a right of appeal given to the Tariff Board, but I do not think the Tariff Board would have any right.

THE COMMISSIONER: In the Tariff Board Act is it?



It says the value for duty shall not be less than the  
...  
for selling cost and profit and then it says that the  
Minister shall be the sole judge insofar as the  
reasonable expenses only is concerned. Does not say  
shall be the sole judge so far as value is concerned.  
So that adds to the confusion.  
...  
that he was the sole judge of the result anyway.  
The result of that, well, it does not say so.  
It says: "The Minister shall be the sole judge of  
what shall constitute a reasonable advance in the  
circumstances....". It adds confusion to the  
authenticity of the cost of production. It is said  
that the Minister shall be the sole judge of both  
what is the cost of production and what is reasonable  
advance, then the door would be shut. Supposing  
you are confronted with a fixed cost of production  
which you as an importer see at once is five and ten  
times more than any actual cost of production would  
be, what do you do? The section does not say the  
Minister is the sole judge of that. It says the  
sole judge only of the advance or that.  
... There is a right of appeal given  
in the tariff board, but I do not think the tariff  
board would have any right.  
... in the tariff board in 1917

5  
10  
15  
20  
25  
30  
35  
40

where is the right of appeal provided for?

MR. McRUER: Let me have the Tariff Board Act.

There is a specific amendment in regard to Section 43,  
put through in 1936 providing for appeals in respect to  
fixed valuations.

THE COMMISSIONER: I find that that section you  
are dealing with is amended in 1936, part of it is  
struck out.

MR. McRUER: Section 48 of the Customs Act ---

THE COMMISSIONER: Here it is here in your Factum  
page 63. You point out there that in June, 1936,  
that sub-section 2 of Section 36, was changed, repealed.  
So that the provision there about the Minister being  
the sole judge is no longer in it. It says:

"....such advance not to be greater than  
that which in the ordinary course of business  
under normal conditions of trade is adequate  
in the case of goods similar to the particular  
goods under consideration by manufacturers or  
producers of goods of the same class or kind  
in the country of export when sold for home  
consumption."

So that the Minister's decision is no longer final  
on that but to whom do you go to if you are not satis-  
fied?

MR. McRUER: Section 48 of the Customs Act provides:

"If, upon any entry or in connection with  
any entry, it appears to any Dominion Appraiser



where is the right of appeal provided for?

MR. MORTIMER: Let me have the Tariff Board Act.

There is a specific amendment in regard to Section 45,

but through in 1936 providing for appeals in respect to

fixed valuations.

THE COMMISSIONER: I find that that section you

are dealing with is amended in 1936, part of it is

struck out.

MR. MORTIMER: Section 48 of the Customs Act ---

THE COMMISSIONER: Here it is here in your Customs

page 65. You point out there that in June, 1936,

that sub-section 2 of section 36, was changed, replacing

so that the provision there about the Minister being

the sole judge is no longer in it. It says:

"...such advance not to be greater than

that which in the ordinary course of business

under normal conditions of trade is adequate

in the case of goods similar to the particular

goods which are being valued."

producers of goods of the same class or kind

in the country of export when sold for home

consumption."

So that the Minister's decision is no longer final

on that but to whom do you go to if you are not satis-

fied?

MR. MORTIMER: Section 48 of the Customs Act provides

"If, upon any entry or in connection with

any entry, it appears to any Dominion Revenue

or to the Board of Customs...."

Now, the duties of the Board of Customs was taken over by the Tariff Board.

".....that any goods have been erroneously appraised,

5 or allowed entry at an erroneous valuation by any

appraiser or collector acting as such, or that

any of the foregoing provisions of this Act

respecting the value at which goods shall be

10 entered for duty have not been complied with,

such Dominion appraiser or such Board may make

a fresh appraisement or valuation, and may direct,

under the valuation or appraisement so made,

an amended entry and payment of the additional

15 duty, if any, on such goods, or a refund of a

part of the duty paid, as the case required,

subject, in case of dissatisfaction on the part

of the importer, to such further inquiry and

20 appraisement as in such case hereinafter provided

for."

THE COMMISSIONER: So that there is an appeal from

the exercise of this discretion by the Department.

MR. McIVER: I take it it is the same as any

25 other right. I am not too sure that that makes it

clear that if the Department had laid down some basis

of valuation under 36, that this would give a right

to review the basis under which the appraisers were

30 acting. I think this is more a right of review of

the action of an appraiser that has acted erroneously



or to the Board of Customs...."

Now, the duties of the Board of Customs was taken over by the Tariff Board.

".....that any goods have been erroneously appraised,

or allowed entry at an erroneous valuation by any

appraiser or collector acting as such, or that

any of the foregoing provisions of this act

respecting the value at which goods shall be

entered for duty have not been complied with,

such Dominion a praiser or such Board may cause

a fresh appraisal or valuation, and may direct

under the valuation or appraisal so made,

an amended entry and payment of the additional

duty, if any, on such goods, or a refund or a

part of the duty paid, as the case requires,

subject, in case of dissatisfaction on the part

of the importer, to such further inquiry and

appraisal as in such case hereafter provided

for."

THE COMMISSIONER: So that there is an appeal from

the exercise of this discretion by the Department.

MR. McLEOD: I take it it is the same as any

other right. I am not too sure that that makes it

clear that it is the Department that laid down some cases

of valuation which it will have to review

to review the cases under which the appraisers were

acting. I think that it is a right of review

and that is the right which the law gives

in respect to the interpretation of some regulations that have been laid down by superior authority. Mr. Hooper points out that 38 (4) has some bearing on the matter:

5                    "The Board of Customs may review the decision  
of any appraiser or collector as to the principal  
markets of the country, or as to the fair market  
value of goods for duty purposes; and the decision  
10 of the Board of Customs in regard to such principal  
markets, and value of goods for duty purposes  
in any case or class of cases, shall, when approved  
by the Minister, be final and conclusive, except  
as otherwise "provided in this Act."

15 But that again is open to - it is certainly ambiguous,  
at any rate.

THE COMMISSIONER: Yes, because after all there  
all the Board of Customs can do is to make a ruling  
which must be approved by the Minister himself before  
20 it is final. So that does not mean there is an  
appeal from him.

MR. HOOPER: That is final.

THE COMMISSIONER: That is a very limited sort of  
25 appeal. That is an appeal from the decision  
of an appraiser or collector, because you go back  
to the Department again. If somebody is dis-  
satisfied with the action of an appraiser or collector  
30 you go to the Board of Customs and that is only  
conclusively effective when the Minister, which again



in respect to the interpretation of some regulations  
that have been laid down by superior authority.  
Mr. Cooper points out that 38 (4) has some bearing  
on the matter:

"The Board of Customs may review the decision  
of any appraiser or collector as to the principal  
markets of the country, or as to the fair market  
value of goods for duty purposes; and the decision  
of the Board of Customs in regard to such principal  
markets, and value of goods for duty purposes  
in any case or class of cases, shall, when approved  
by the Minister, be final and conclusive, except  
as otherwise provided in this Act."

But that again is open to - it is certainly ambiguous  
at any rate.

THE COMMISSIONER: Yes, because after all there  
all the Board of Customs can do is to make a ruling  
which must be approved by the Minister himself before  
it is final. So that does not mean there is an

MR. HOOVER: That is final.  
THE COMMISSIONER: That is a very limited sort of  
appeal. There is an appeal from the decision  
of an appraiser or collector, and you go back  
to the Board of Customs.

appealed with the action of an appraiser or collector  
and the Board of Customs and that is only  
administratively effective and not judicially

means the Department, approves of it, so that there is no appeal there from what the Department does in the first place.

5 MR. McRUER: I do not think it could be construed in any way because it would mean that it would be appealing from the ruling of the minister subject to his veto as to whether the appeal should be allowed or not. It could not mean that. However,---

10 THE COMMISSIONER: You have looked into this. It would appear that these powers are used arbitrarily without any appeal to anybody, is that right?

15 MR. McRUER: I think so. . . . What actually happened in practice was this: That the Departmental officials would make the ruling and if the importers were dissatisfied or if the industry was dissatisfied as to the ruling of departmental officials they appealed to the Minister, and he was the final authority. I invite correction on that because that is my interpretation of it and my instructions, but if there was any other course taken in respect to it we will have it. I cannot see under what authority it is done but, as I said, I certainly won't set myself up to be infallible in respect to the Customs Act because I find the woods are very dense and the trails you get on them when you get lost and then you go back and try to find them again.

25  
30 AS to what was actually done, the extent to which it was used, your lordship invited comment on that.



means the department, approves of it, so that there is no appeal there from what the department does.

THE CHIEF CLERK:

MR. MORTIMER: I do not think it could be considered in any way because it would mean that it would be appealing from the ruling of the minister subject to his review as to whether the appeal should be allowed or not. It could not mean that. However,---

MR. MORTIMER: You have looked into this.

If would appear that these powers are used arbitrarily without any appeal to anybody, is that right?

MR. MORTIMER: I think so. That is exactly as per-

ed in practice was this: That the departmental officials would make the ruling and if the inspectors are dissatisfied or if the industry was dissatisfied as to the ruling of departmental officials they appealed to the minister, and he was the final authority. I invite correction on that because that is my interpretation of it and my instructions, but if there was any other course taken in respect to it

we will have it. I cannot see where that authority is laid out, as I said, I certainly won't set myself up to be infallible in respect to the customs act because I find the words are very dense and the trails you get on when you get lost and then you go back and try to find them again.

As to what was actually done, the extent to which your partnership involved customs on that.

Now, on examination of Exhibit 829 we find on this 1,000 yard piece dealt with on May 6th, 1932, the selling price in the United States was \$46.25.

The value for duty was \$67.02. Now, at that time Canadian funds were depreciated in respect to the American dollar to the extent of 11.7%. The value in Canadian funds would be \$51.66 if imported direct.

THE COMMISSIONER: And Canadian funds,

MR. McRUER: And Canadian funds, after it was imported, they would have to put \$51.61. That would have been the value for duty.

THE COMMISSIONER: No, not value for duty.

You told me 46.65 was the American selling price and 67.02 was the value for duty.

MR. McRUER: 67.02 was the value fixed for duty due to this appraisal.

THE COMMISSIONER: Now you say the \$46 American selling price means American dollars, which at that time would mean 51.61 in Canadian dollars.

MR. McRUER: Yes. In the next item shown on the Exhibit in June the American selling price was \$42.50. The value in Canadian funds was \$48.53, but the value for duty as fixed by the appraisal \$68.51. On the next item, July 7th, the value in Canadian funds was \$45.58, the value in American funds was \$40.00, and Canadian funds \$45.58. The value for duty \$68.36.



Now, on examination of Exhibit 329 we find on this  
1,000 yard piece dealt with on May 2nd, 1932, the  
selling price in the United States was \$46.25.  
The value for duty was \$57.02. Now, at that time  
Canadian funds were depreciated in respect to the  
American dollar to the extent of 11.7%. The value  
in Canadian funds would be \$51.66 if imported direct.  
THE COMMISSIONER: And Canadian funds.  
MR. WOOD: And Canadian funds, after it was  
imported, they would have to put \$51.61. That would  
have been the value for duty.  
THE COMMISSIONER: No, not value for duty.  
You told me \$46.25 was the American selling price and  
\$57.02 was the value for duty.  
MR. WOOD: \$57.02 was the value fixed for duty  
due to this appraisal.  
THE COMMISSIONER: Now you say the \$46 American  
selling price means American dollars, which at that  
time would mean \$51.61 in Canadian dollars.  
MR. WOOD: Yes. In the next item shown on  
the Exhibit is June the American selling price was  
\$42.50. The value in Canadian funds was \$48.50.  
At the value for duty as fixed by the appraisal  
\$58.51. On the next item, July 2nd, the value  
in Canadian funds was \$44.50, the value in American  
funds was \$40.00, and American funds \$45.50. The  
value for duty \$53.50.

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THE COMMISSIONER: We will adjourn now until  
2.30 P.M.

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-- The Commission adjourned at 12.30 P.M. to resume  
at 2.30 P.M.

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THE COMMISSIONER OF THE REVENUE DEPARTMENT

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--- The Commission adjourned at 12.30 P.M. to resume  
at 2.30 P.M.

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-- The Commission resumed at 2.30 p.m.

ARGUMENT BY MR. McRUER K.C. (Continued)

5 When we adjourned I was dealing, my lord, with the effect of the bulletins that were put out in April and September of 1932.

THE COMMISSIONER: What were their contents again ?

10 MR. McRUER: They were bulletins containing the valuations that were placed on different kinds of cotton fabrics under the provisions of section 36 (2).

15 THE COMMISSIONER: Coming from where ?

MR. McRUER: From the United States. The increases in value resulted, of course, in an increase in duty when reckoned at the ad valorem rate.

20 To return again to page 76 of my brief, it will be seen that for 1932-1933 the items shown bear an ad valorem duty of from 81 to 95 per cent. Of course, these vary according to the value in the United States by reason of the specific duty. We have the same thing as we had in the yarn; the ad valorem duty is increased as the ratio of the  
25 specific duty to the selling price increases. In August, 1933, prices in the United States increased, due to the adoption of the NRA, to such an extent that the selling price was as high in the United  
30 States as the prices shown in the appraisers'



The Commission on the Cotton Textile Industry

Page 10 of 10 (Continued)

When we adjourned I was feeling my foot, with  
the effect of the billiard that were put out in  
April and September of 1952.  
THE COMMISSIONER: What were their contents  
of cotton textiles under the provisions of section  
36 (2).

THE COMMISSIONER: Coming from where?  
Mr. WATSON: From the United States. The in-  
crease in value restricted, of course, in an in-  
crease in duty and restricted at a 25 percent rate.  
To return again to page 75 of my brief, it will  
be seen that for 1952-1953 the items shown were  
an ad valorem duty of from 31 to 35 per cent. Of  
course, those very according to the value in the  
United States by reason of the specific duty. We  
have the same thing as we had in the year; the ad  
valorem duty is increased as the ratio of the  
specific duty to the selling price increases. In  
August, 1953, prices in the United States increased  
due to the adoption of the MRA, to such an extent  
that the selling price was as high in the United  
States as the prices shown in the "Foreigners".

bulletin, and therefore the bulletin was no longer necessary or effective. Mr. Hooper just draws my attention to the fact that prices in the United States rose that high by June, 1933.

5 THE COMMISSIONER: What happened to the bulletin then? Was it revoked?

MR. HOOPER: It was withdrawn.

MR. McRUER: It was withdrawn on September 5, 1933, Mr. Hooper tells me.

10 THE COMMISSIONER: How were United States prices ascertained?

MR. McRUER: By the selling prices in the United States.

15 THE COMMISSIONER: That was accepted as the fair market value?

MR. McRUER: As the fair market value because by that time they had risen as high as the prices shown in the bulletin.

20 THE COMMISSIONER: Does that condition still prevail?

MR. McRUER: Yes.

THE COMMISSIONER: So that American prices now on these fabrics are accepted for duty valuation?

25 MR. McRUER: Yes, the home market valuation is accepted in all cases.

THE COMMISSIONER: Accepted in all cases?

MR. McRUER: Yes.

30 THE COMMISSIONER: That is in respect to the United States?



bulletin, and therefore the bulletin was no longer necessary or effective. Mr. Hooper just came up attention to the fact that prices in the United States rose that high by June, 1933.

THE COMMISSIONER: What happened to the bulletin then? Was it revoked?

MR. HOOPER: It was withdrawn.

MR. MOHR: It was withdrawn on September 3,

1933, Mr. Hooper tells me.

THE COMMISSIONER: How were United States

prices ascertained?

MR. MOHR: By the selling prices in the

United States.

THE COMMISSIONER: That was accepted as the

fair market value?

MR. MOHR: As the fair market value because by that time they had risen as high as the prices shown in the bulletin.

THE COMMISSIONER: Does that condition still

prevail?

MR. MOHR: Yes.

THE COMMISSIONER: So that American prices

now on these topics are not paid for duty valuation?

MR. MOHR: Yes, the home market valuation

is accepted in all cases.

THE COMMISSIONER: Accepted in all cases?

MR. MOHR: Yes.

THE COMMISSIONER: That is in respect to the

United States?

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MR. McRUER: Yes, there are none of these valuations on now.

THE COMMISSIONER: We are talking now only of the United States ?

MR. McRUER: Yes, my lord, but we can go further and say that there are none of them in effect in regard to any country now.

THE COMMISSIONER: How then is the value for purposes of duty arrived at in respect to other countries ? By the invoices ?

MR. McRUER: By the home market selling price, the fair market value for home consumption.

THE COMMISSIONER: But that must in turn be ascertained under those sections that we read this morning. The invoice is not acceptable, is it ?

MR. McRUER: No, if they think the invoice is below the home market selling price, dumping duty is levied. They have their officers there to determine what the home market selling price is in case of complaint, except, of course, in cases where the fixed valuations are still in effect. There are fixed valuations under section 43.

THE COMMISSIONER: They are still working ?

MR. McRUER: Still in effect.

THE COMMISSIONER: But that only affects countries which are not in the most favoured nation class, does it not ?

MR. McRUER: Yes, countries under the general tariff. There are some fixed valuations, as we



...and the fact that the value of the stock is not the same as the value of the company.

The value of the stock is not the same as the value of the company.

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The value of the stock is not the same as the value of the company.

pointed out yesterday, that were not subject to the provisions of the treaty between Canada and the United States.

5 THE COMMISSIONER: Oh yes, rubber goods, for instance.

MR. McRUER: Rubber goods and some other things.

To return to this illustration on page 76, in 1932-1933 you will see the rise in the ad valorem rate.

10 THE COMMISSIONER: You say the rise in the ad valorem rate ?

MR. McRUER: It is the rise in the rate of duty calculated on an ad valorem basis, from 43 to 95 per cent.

THE COMMISSIONER: Just where is that ?

MR. McRUER: Page 76, column 4. It starts off with 22½ per cent.

THE COMMISSIONER: And the 43 per cent was in 1930 ?

MR. McRUER: Yes.

THE COMMISSIONER: And in 1932, 95 per cent.

MR. McRUER: The rise between 1930 and 1932 was due in large part to the appraisers' bulletin.

25 THE COMMISSIONER: It more than doubled the rate.

MR. McRUER: There was a special session of parliament in 1930 to introduce new tariff schedules which increased the rate from 22 to 43 per cent, but by action of the department under the provisions of



pointed out yesterday, that we are not subject to the provisions of the treaty between Canada and the United States.

THE COMMISSIONER: Oh yes, rubber goods, for

instance.

MR. MURPHY: Rubber goods and some other things.

To return to this illustration on page 76,

in 1932-1933 you will see the rise in the ad valorem

rate.

THE COMMISSIONER: You say the rise in the ad

valorem rate?

MR. MURPHY: It is the rise in the rate of duty

calculated on an ad valorem basis, from 43 to 55 per

cent.

THE COMMISSIONER: That where is that?

MR. MURPHY: Page 76, column 4. It starts off

with 23 per cent.

THE COMMISSIONER: And the 45 per cent was in

1930?

MR. MURPHY: Yes.

THE COMMISSIONER: And in 1932, 55 per cent.

MR. MURPHY: The rise between 1930 and 1932 was

due in large part to the appraisers' valuation.

THE COMMISSIONER: It more than doubled the

rate.

MR. MURPHY: There was a special session of par-

liament in 1930 to introduce new tariff schedules

which raised the rate from 33 to 43 per cent, but

by action of the department under the provisions of

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section 36 (2) they were able to increase the rates from 43 to 95 per cent without consulting parliament and without even going before council.

THE COMMISSIONER: What was there to stop them ?

MR. McRUER: Nothing. There was the provision.

THE COMMISSIONER: Parliament gave them the authority to do it.

MR. McRUER: Parliament gave them authority to do it, undoubtedly, but at the same time it is worthy of comment that such action can be taken without consulting the government. It is merely a departmental matter.

THE COMMISSIONER: What moves the department to act in this way ?

MR. McRUER: Representations of the industry I should say.

THE COMMISSIONER: That has to be ascertained. I think it is a thing we ought to know.

MR. HOOPER: The department never rules unless representations are made by business men.

MR. KELLOCK: It was due to the fact that United States mills were selling below the cost of production.

MR. McRUER: That is the reason it is done, but what moves the department would certainly be representations from the industry.

MR. KELLOCK: I do not know what the evidence is, or if there is any evidence.

MR. HOOPER: In this case representations were



section 22 (2) they were able to increase the rates  
from 25 to 35 percent without consulting Parliament  
and without even going before a committee.  
THE CHAIRMAN: What was there to stop them  
from doing that? What was the position  
of the Government? What was the position  
of the Government?  
authority to do it.  
MR. McLEOD: Parliament gave them authority to  
do it, undoubtedly, but at the same time it is wrong  
of a Government that such action can be taken without  
consulting the Government. It is a reply a general  
moral matter.  
THE CHAIRMAN: What moves the Government to  
set in this way?  
MR. McLEOD: Representatives of the industry  
I should say.  
THE CHAIRMAN: That has to be ascertained.  
I think it is a matter we ought to know.  
MR. McLEOD: The Government have taken action  
representations are made by business men.  
MR. McLEOD: It is not the Government  
United States which were selling below the cost of  
production.  
MR. McLEOD: That is the reason it is done,  
but what moves the Government would certainly be  
representations from the industry.  
MR. McLEOD: I do not know what the evidence  
is, or if there is any evidence.  
MR. McLEOD: In this case representations were

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made to the department that goods were being sold in  
by the United States at less than the cost of pro-  
duction plus a reasonable advance for selling cost  
and profit.

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THE COMMISSIONER: Was investigation made ?

MR. HOOPER: Investigation followed, and then  
the bulletin was issued. That is the general routine.

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THE COMMISSIONER: Is there room for representa-  
tions to be made on both sides of the question, by  
importers for example ?

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MR. HOOPER: Yes, my lord. Investigation is  
made in the country of export and a ruling made by  
the department. Then the importer, if he has the  
facts or an exporter may visit the department and  
discuss the matter with members of the department,  
and if all the facts have ~~be~~ not been brought out  
in the first investigation we might make a further  
investigation or make an adjustment.

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THE COMMISSIONER: You have in mind an investi-  
gation initiated by manufacturers, but in the first  
instance may importers come to the department and  
say, "Here your regulations are too high. The cost  
of production down there has fallen and therefore  
your valuation should fall?" Is that done too ?

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MR. HOOPER: Yes, my lord, we have had similar  
cases.

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MR. McRUER: Mr. Hooper has just mentioned to  
me what rights of appeal there are, and I think I  
shall have to get the statutes and refer specifically



note to the Government that goods were being sold in  
by the United States at less than the cost of pro-  
duction plus a reasonable allowance for selling and  
and profit.

THE COMMISSIONER: Has investigation been made?

MR. HOOPER: Investigation followed, and then

the Bulletin was issued. That is the normal situation.

THE COMMISSIONER: Is there room for negotiation?

There to be made on both sides of the question, by

importers for example?

MR. HOOPER: Yes, my lord. Investigation is

made in the country of export and a ruling made by

the Government. Then the importer, if he has the

facts or an exporter may visit the Government and

discuss the matter with members of the department,

and if all the facts have not been brought out

in the first investigation we might make a further

investigation or make an adjustment.

THE COMMISSIONER: You have in mind an investi-

gation initiated by manufacturers, but in the first

instance may importers come to the department and

say, "Here your regulations are too high. The cost

of production down there has fallen and therefore

your valuation should fall?" Is that done too?

MR. HOOPER: Yes, my lord, we have had similar

MR. HOOPER: Mr. Hooper has just mentioned to

me what rights of appeal there are, and I think I

have to get the statutes and rules acquainted

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to them so that we shall have it properly on the record. The point I want particularly to emphasize in this connection is the foundation on which the department must act, and that is the cost of production abroad.

THE COMMISSIONER: The cost of production abroad plus an advance --

MR. McRUER: For selling cost and profit, all of which are things extremely difficult for anyone to arrive at in a way that is at all accurate. In addition to that, it puts a uniformity on the whole thing. The cost of production is somebody's cost of production probably, and perhaps not. It may be somebody's cost of production, but actually there is no cost of production abroad as a whole.

Now as to the duties as they are to-day between Canada and the United States after the negotiation of the treaty in January 1936, they are 45 per cent ad valorem, which is exactly double what they were on the example taken of duties in 1930 prior to the special session of parliament when the duties were increased. This, of course, includes excise taxes as well.

On pages 77, 78 and 79 of my brief I deal with these matters that we have just been discussing, and that is the effect of section 26 (2) and how these valuations were arrived at.

On page 79 I show the additional duties that were imposed due to this particular valuation



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to them so that we shall have it properly on the  
record. The point I want particularly to emphasize  
in this connection is the fact that in the case of pro-  
duction must not be, and that is the cost of pro-  
duction itself.

THE COMMISSIONER: The cost of production  
should be an advance --

MR. MEMBER: For selling cost and profit, all  
of which are things extremely difficult for anyone  
to arrive at in a way that is at all accurate. In  
addition to that, it puts a uniformity on the whole  
thing. The cost of production is somebody's cost  
of production probably, and perhaps not. It may  
be somebody's cost of production, but certainly the  
is no cost of production shown as a whole.

Now as to the duties as they are today before  
us, and the duties as they were in 1936, they are as per  
of the treaty in January 1936, they are as per  
ed before, which is exactly how they were  
on the example taken of duties in 1936 prior to the  
special session of Parliament when the duties were  
increased. This, of course, includes excise taxes  
as well.

On pages 77, 78 and 79 of my brief I deal with  
these matters that we have just been discussing,  
and that is the effect of section 36 (2) and how  
these matters are dealt with in the  
as far as I am concerned, with the  
very important and the important to the

of May 6. There is a mistake there, I think. I say:

"By way of illustration, on the first three items shown on page 2 of Exhibit 829, following April 7, 1933 --

5 should not that be 1932, at the middle of page 79, Mr. Hooper ?

MR. HOOPER: Yes.

MR. McRUER: It should be 1932, not 1933. It goes on:

10 " -- the following table shows the increase in duty in respect to those items, due to the provisions of Exhibit 827."

That was the special appraisers' bulletin. There was an increase in the regular duty and in the excise duty amounting to 4.41.

15 MR. KELLOCK: What do you mean by that ?

MR. McRUER: The valuation put on the goods raised the regular duty and excise by 4.41.

20 MR. KELLOCK: The next column shows the special duty as 15.36.

MR. McRUER: The increase in the value by reason of the appraisers' bulletin brought into operation the dumping duty, which amounted to \$15.36, or a total of \$19.77.

25 THE COMMISSIONER: That is nineteen dollars and seventy-seven cents ?

MR. McRUER: Yes, my lord, on that item of May 6, 1932.

30 THE COMMISSIONER: Just a minute. If you are



of May 6. There is a mistake there, I think. I say  
"by way of illustration, on the first three  
items shown on page 3 of Exhibit 823, following

ARTICLE 1, 1931 -

should not that be 1932, at the middle of page 79,

Mr. Hooper ?

MR. HOOPER: Yes.

MR. MURRAY: It should be 1932, not 1931. It

goes on:

" -- the following table shows the increase

in duty in respect to those items, due to

the provisions of Exhibit 823."

That was the special operators' bulletin. There

was an increase in the regular duty and in the

excise duty amounting to 4.41.

MR. MURRAY: What do you mean by that ?

MR. MURRAY: The valuation put on the goods

raised the regular duty and excise by 4.41.

MR. MURRAY: The next column shows the special

duty as 12.30.

MR. MURRAY: The increase in the value by

reason of the operators' bulletin brought into

operation the dumping duty, which amounted to \$12.30

or a total of \$19.71.

THE COMMISSIONER: That is nineteen dollars and

seventy-seven cents ?

MR. MURRAY: Yes, my lord, on that item of May

1931.

THE COMMISSIONER: And a mistake. It was 1932.

talking of dollars we have to see what your foundation is. An increase over what ?

MR. McRUER: The cost price.

5 THE COMMISSIONER: No, I mean over what amount or money. You are talking of an increase of \$4.41 and another increase of \$15.35, making a total increase of \$19.77. An increase over how much ? In order to see the ratio we need that.

10 MR. McRUER: It is on goods costing \$51.66. That is the cost price in Canadian funds, \$51.66, and if allowed in at that price they would have paid \$19.77 less duty than they did.

THE COMMISSIONER: Yes, I see now.

15 MR. McRUER: On the next item of June 4, the cost of these goods was \$48.53 in Canadian funds, and they would have paid \$25.73 less duty than they did.

20 THE COMMISSIONER: Then goods costing \$48.53 paid \$25.73 more than what ?

MR. McRUER: More than they would have paid had there not been these fixed values.

THE COMMISSIONER: What would they have paid otherwise ?

25 MR. McRUER: I will put it this way. The duty payable altogether was \$102.66.

THE COMMISSIONER: Now you have it.

MR. McRUER: Of which \$25.73 was due to this special appraisal.

30 THE COMMISSIONER: Yes. Then you take an article



...of dollars we have to see what your losses-  
...the ... is increase over what?  
...the ... the cost price.  
...the ...: No, I mean over what amount  
... You are talking of an increase of \$1.41  
... another increase of \$1.55, which would be  
... \$19.77. An increase over how much? In order  
... to see the ratio we need that.  
...: It is on goods costing \$11.55.  
... That is the cost price in Canadian funds, \$11.55,  
... and if allowed in at that price they would have sold  
... \$19.77 less duty than they did.  
...: Yes, I see.  
...: On the next item of line A, the  
... cost of these goods was \$18.58 in Canadian funds,  
... and they would have paid \$20.75 less duty than the  
... \$19.77.  
...: Then goods costing \$18.58  
... paid \$20.75 more than what?  
...: Yes, that is the duty.  
... there not been these fixed values.  
...: What would they have paid  
... otherwise?  
...: I will put it this way. The  
... payable altogether was \$11.55.  
...: Now you have it.  
...: Of which \$20.75 was due to the  
...: Yes. Then you have a

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bought for \$48.53 and you find that article paid a total duty of how much ?

5 MR. McRUER: Just a minute, my lord. I took the wrong figure. It paid total duty of \$54.13, of which \$25.73 was due to special valuation.

THE COMMISSIONER: That was on a rate of duty of how much ?

MR. McRUER: The rate was 25 per cent and 4 cents a pound.

10 THE COMMISSIONER: 25 per cent looks innocent enough but when you add 4 cents a pound and these valuations it makes it over 100 per cent ?

MR. McRUER: On that item yes, my lord. Of course, in addition, Canadian funds were depreciated in the United States at that time to the extent of 14 per cent.

THE COMMISSIONER: I thought you were giving me all these figures in Canadian funds ?

MR. McRUER: Yes, my lord.

20 THE COMMISSIONER: Then you buy an article for \$48.53 in Canadian funds and the rate of duty is said to be 25 per cent plus 4 cents a pound, and you find that the duty amounts in reality to \$54.13 ?

25 MR. McRUER: Yes, my lord. At page 80 of my brief I put it in a different way. That shows the additional protection over the regular customs tariff that was afforded by this special valuation. For instance, take the first item on page 80, on May 6, 1932, the United States selling price on this item was \$46.25, which represented an additional protec-

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bought for \$48.58 and you find the article sold a  
 total duty of how much?  
 Mr. Mather: Just a minute, my lord. I took the  
 wrong figure. It paid total duty of \$54.18, of which  
 \$25.78 was due to special valuation.  
 The Commissioner: That was at a rate of duty  
 of how much?  
 Mr. Mather: The rate was 25 per cent and 4  
 cents a pound.  
 The Commissioner: 25 per cent looks innocent  
 enough but when you add 4 cents a pound and those  
 valuations it makes it over 100 per cent?  
 Mr. Mather: On that item yes, my lord. Of  
 course, in addition, Canadian trade were depreciated  
 in the United States at that time to the extent of  
 14 per cent.  
 The Commissioner: I thought you were giving me  
 all these figures in Canadian trade?  
 Mr. Mather: Yes, my lord.  
 The Commissioner: Then you pay an article for  
 \$48.58 in Canadian trade and the rate of duty is  
 said to be 25 per cent plus 4 cents a pound, and  
 you find that the duty amounts in reality to \$54.18?  
 Mr. Mather: Yes, my lord. At page 86 of my  
 letter I put it in a different way. That shows the  
 duty paid protection even the regular customs tariff  
 was sufficient to pay the duty.  
 In answer, take the first item on page 80, on May 6,  
 1901, the United States selling price on this item  
 was \$11, which represented an additional profit

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tion over the regular customs tariff schedules of \$25.18. On June 4, on a United States selling price of \$42.50, the additional protection was \$31.76. On July 7, 1932, on a United States selling price of \$40, the additional protection was \$34.19. So your lordship will see the percentage of increase that took place by this method of valuation.

THE COMMISSIONER: What fabrics are we dealing with here ?

MR. McRUER: That is dealing with 46" sheeting, cotton gray goods. At the foot of page 80 ~~the~~ a statement is made which although accurate at the time is not accurate at the present time.

THE COMMISSIONER: When was it correct ?

MR. McRUER: Since the brief was written there has been a change.

THE COMMISSIONER: Is that the statement in the last paragraph ?

MR. McRUER: The second last paragraph, reading:

"It appears that although valuations fixed as in Exhibit 828 in respect to textiles are no longer in effect, there are valuations in respect to other goods still in effect, which have been similarly determined.

It is submitted that the imposition of customs duties by means of special appraisals, such as Exhibits 827 and 828, is not in the interests of the public of Canada, in that the public does not know what duties are actually



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tion over the regular customs tariff schedules of  
\$85.18. On June 4, on a United States selling price  
on \$42.50, the additional protection was \$42.68.  
July 7, 1932, on a United States selling price of  
\$40, the additional protection was \$42.18. So your  
Jordanis will see the percentage of increase that  
took place by this method of valuation.

THE CUSTOMER: What factors are we dealing

with here?

MR. BRYDIE: That is dealing with 40" sheeting  
cotton grey goods. At the foot of page 80 there is  
statement is made which although accurate at the time  
is not accurate at the present time.

THE CUSTOMER: When was it so?

MR. BRYDIE: Since the tariff was written there  
has been a change.

THE CUSTOMER: Is that the situation in

the last paragraph?

MR. BRYDIE: The second last paragraph, reading

"It appears that although valuations fixed  
as in Exhibit 888 in respect to valuations are  
no longer in effect, there are valuations in  
respect to other goods still in effect, which  
have been similarly determined."

It is admitted that the intention of

customs duties by means of special appraisals

interests of the public of Canada, in that it  
public does not know what duties are actually

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payable on goods imported into Canada."

5 Since the brief was prepared general valuations under  
section 36 of the Customs Act, referred to as valuations  
in respect of other goods, still in effect, have been  
cancelled by order of the Commissioner of Customs, and  
it is not the present policy of the Department of  
National Revenue to use section 36 as a means of en-  
hancing the fair market value as sold for home con-  
10 sumption at the time and place of shipment without  
regard to the cost of production of the individual  
exporter.

THE COMMISSIONER: Who authorized that ?

15 MR. McRUER: Mr. Hooper states that that is the  
departmental attitude.

THE COMMISSIONER: Not to utilize section 36 to  
do what ?

MR. McRUER: To enhance the fair market value.

20 THE COMMISSIONER: That is a pretty strong state-  
ment. The act is still there, the section is still  
in force, and I do not see how the department can  
say that they are never going to enforce it.

25 MR. McRUER: Without regard to the cost of pro-  
duction of the individual exporter. What that means  
is this: It is not the policy of the department to  
make one valuation applicable to the whole country  
without regard to the cost of production of the  
individual exporter.

30 THE COMMISSIONER: That is the policy they intend  
to pursue from now on ?





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MR. McRUER: Yes, my lord.

Now I turn to the text table, taken from Exhibit 830, and appearing on page 82 of the brief, because the intervening pages are really explanatory of the former table and I have already covered the ground in my remarks. This table on page 82 is in respect to the mill spread on the same piece of sheeting that we have been dealing with. If your lordship will look at column 3 of this table you will see that between January 1933 and August 1933 there was a rise in the Canadian mill spread from 15.95 cents a pound to 18.65 cents a pound, and there was a rise in the American mill spread of from 4.97 to 16.48 cents a pound. That is again the same thing that occurred at the time of the introduction of the NRA in respect to yarns. We find the Canadian mill spread rise in Canada.

THE COMMISSIONER: And it rose here above 2.70.

MR. McRUER: Yes.

THE COMMISSIONER: It rose in the United States about 12.

MR. McRUER: Yes, it rose a great deal more in the United States, and we must remember that they decreased wages in Canada while in the United States wages were very drastically increased in the same period. So while we had no NRA, while we were undergoing exactly the opposite of the NRA, the Canadian mill spread was rising without any apparent reason. From 1933 to 1936 the Canadian mill spread



now I turn to the last table, taken from  
Exhibit 830, and appearing on page 66 of the brief.  
because the intervening pages are really explanatory  
of the former table and I have already covered the  
ground in my remarks. This table on page 66 is in  
respect to the mill spread on the same piece of  
sheeting that we have been dealing with. If your  
lordship will look at column 3 of this table you  
will see that between January 1934 and August 1934  
there was a rise in the Canadian mill spread from  
15.25 cents a pound to 16.55 cents a pound, and the  
was a rise in the American mill spread of from 15.00  
to 16.48 cents a pound. That is again the same thing  
that occurred at the time of the introduction of  
WMA in respect to yarns. We find the Canadian mill  
spread rose in Canada.  
THE COMMISSIONER: And it rose more above 2.5?  
MR. MURPHY: Yes.  
THE COMMISSIONER: It rose in the United States  
about 1.5.  
MR. MURPHY: Yes, it rose a great deal more in  
the United States, and we must remember that United States  
spread wages in Canada while in the United States  
wages were very drastically increased in the same  
period. So while we had no WMA, while we were  
undergoing exactly the opposite of the WMA, the  
Canadian mill spread was rising without any explanation.  
From 1934 to 1935 the Canadian mill spread

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has been consistently double the mill spread in the United States notwithstanding the fact that during that time the Canadian operators were operating under decreased wages and the American operators were operating under increased wages. Take, for instance, the last four items shown in columns 3 and 5. The Canadian mill spread shown in the fourth line from the bottom of the column was in November 1933, 18.11 cents, the American, 9.25; next year the Canadian mill spread was 19.44 cents, and the American, 8.06, and so on.

THE COMMISSIONER: Can you tell me what caused the American spread to go down so much? I understand the increase up to 16.48 on account of the NRA, but did the NRA remain in force for only one year?

MR. McRUER: No, it was in force longer, and the same wage scales are in force in 90 per cent of the mills yet.

THE COMMISSIONER: How have they succeeded in bringing down their mill spreads very considerably?

MR. McRUER: Prices have declined. Your lordship will see that the American selling price was 33.14 on August 10, 1933.

THE COMMISSIONER: Yes. It is reflected in the selling price, of course.

MR. McRUER: That reduces the mill spread.

THE COMMISSIONER: How could they afford to do it?

MR. McRUER: They must have had too much.

THE COMMISSIONER: Too much profit?



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MR. McRUER: Too much mill spread, and they probably could not get the price up to where it was.

Mr. Hooper suggests that they did not know what their costs were going to be under the NRA.

5 THE COMMISSIONER: And they took it out of the consumer ?

MR. McRUER: They made a liberal allowance. That did not last for a very long time.

THE COMMISSIONER: That is what I say.

10 MR. McRUER: In 1933 for just about two months they got these higher prices, then it dropped, and on August 10, 1933, the selling price was 33.14, and on November 7, 1933, 25.31.

15 THE COMMISSIONER: Then you could take it for granted that the selling price in October 1933 of 33.14 was not justified by the conditions ?

MR. McRUER: I would not have thought so. They were not able to maintain it at any rate.

20 MR. KELLOCK: Before that time they were making terrific losses in the United States.

25 MR. McRUER: Well, I do not know. At any rate the Canadian selling price, your lordship will see, went up along with the American. It did not rise so much but it went up just the same, and then it drops from 31.35 to 29.93, then up to 35.63 on the 3rd of August, 1934, when the American price was lower than it had been in August 1933.

30 THE COMMISSIONER: That 35.63 selling price in 1934 is the highest selling price, highest in



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Mr. McNEIL: Too much will be agreed, and they probably could not get the prices up to where it was. Mr. Hooper suggests that they did not know that their costs were going to be under the RMA. The Commission: And they took it out of the consumer?

That did not last for a very long time. The Commission: That is what I say. Mr. McNEIL: In 1933 for just about two months they got these higher prices, then it dropped, and on August 10, 1933, the selling price was 33.14, and on November 7, 1933, 22.31.

granted that the selling price in October 1933 of 33.14 was not justified by the conditions? Mr. McNEIL: I would not have thought so. They were not able to maintain it at any more.

Mr. McNEIL: Before that time they were making terrific losses in the United States. Mr. McNEIL: Well, I do not know. At any rate the Canadian selling price, your partnership will not go along with the American. It did not then so much but it went to just the same, and then it dropped from 31.35 to 29.93, then up to 33.63 on the 2nd of August, 1934, when the American price was lower than it had been in August 1933.

The Commission: That 33.63 selling price in 1934 is the highest selling price, highest in

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the United States or Canada during the period covered by this table ?

5 MR. McRUER: Yes, and the mill spread, your lordship will notice, is 19.44, which seems to be the highest mill spread that is shown on the table.

THE COMMISSIONER: Yes.

10 MR. McRUER: And your lordship may remember what has been shown as to the earnings of these companies for the year 1934. They all showed very fine earnings in that year, and this reflects something of the reason.

15 THE COMMISSIONER: Can this be shown ? We are talking just now of the consumers' inability to cope with this condition of affairs by law and regulation, but is there not another class, the importing class, that is sufficiently organized to watch these things and take action when they think it is advisable ?

20 MR. McRUER: The importers, I think, have an association organized in some way.

THE COMMISSIONER: And of course their interest is to get goods in as cheaply as possible.

25 MR. McRUER: Yes. I do not know how strong they are, that organization, I am sure. Sometimes I doubt if any organization of that sort is organized as strongly as the producers.

MR. KELLOCK: Why should my friend say that ?

MR. McRUER: Because they do not.

MR. KELLOCK: You say you do not know.

30 MR. McRUER: Do you say that they are organized



1911

and lighted candles on the altar during the service

by this table?

MR. BRYDIE: Yes, and this will agree, you

historians with notice, is 19.44, which seems to be

the highest will agree that is shown on the table.

MR. BRYDIE: Yes.

MR. BRYDIE: And your finding may be made that

has been shown as to the earnings of these companies

for the year 1934. They all showed very high earnings

in that year, and this reflects something of the

reason.

MR. BRYDIE: Can this be shown? We are

taking just now of the companies' liability to a

with this condition of affairs by law and practice

but is there not another class, the important class

that is sufficiently organized to watch these things

and take action when they think it is advisable?

MR. BRYDIE: The answer, I think, is that

association organized in some way.

MR. BRYDIE: And of course these things

is to get goods in as cheaply as possible.

MR. BRYDIE: Yes. I do not know how strong

they are, that organization, I am sure. Sometimes

I doubt if any organization of that sort is

as strong as the Government.

MR. BRYDIE: And having got things out of

the Government, they are in a way.

MR. BRYDIE: For the Government to

the Government, and the fact that they are

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as strongly as the Canadian Manufacturers Association, with all their set-up of tariff experts, two or three lawyers, and so on ?

5 MR. KELLOCK: My friend has an unfortunate way of turning an argument in my direction. I am merely drawing attention to my friend's statement which he prefaced with the remark that he did not know. I am saying that my instructions are that there is not such --

10 MR. McRUER: Are your instructions --

MR. KELLOCK: There you are, doing it again, interrupting. I am not being cross-examined.

15 MR. McRUER: Do not make statements that are misleading.

MR. KELLOCK: My friend should not say that I am making statements that are misleading. I do not think your lordship will say that I have done so so far.

20 THE COMMISSIONER: No, no. I should like to know a little more about how strong an organization this importing body is.

MR. KELLOCK: I think Mr. Hooper has that.

25 THE COMMISSIONER: Yes, so that we shall be familiar with how this body works, but perhaps we need not go into that today.

30 MR. McRUER: If there is such a body that is strongly organized, I should like to have had that evidence, if my friend knew of it, because I was going into the question of organizations very



as strongly as the Canadian Government. About 1907  
with all their set-up of social experts, and on 1910  
last, and so on?

Mr. Brydie: My friend has an extraordinary way  
of turning an argument in my direction. I am really  
gratified to my friend's statement which he  
presented with the remark that he did not know. I  
am saying that up instructions are that there is no

Mr. Brydie: Are your instructions --  
interesting. I am not being cross-examined.  
Mr. Brydie: Do not make statements that are  
misleading.

Mr. Brydie: My friend should not say that I  
am making statements that are misleading. I do  
not think your friendship will say that I have done so  
so far.

Mr. Brydie: No, no. I should like to  
have a little more about how strong an organization  
you are.

Mr. Brydie: I think Mr. Cooper has said.  
I am not sure: Yes, no that we will be  
working with him this body work, but perhaps we  
are not into that money.

Mr. Brydie: If there is such a body that is  
strongly organized, I should like to have had that  
statement. If we know of it, because I was  
not sure the committee of inquiry will say

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carefully. I can say very frankly that my own feeling was that it was a very feeble body, but I may be entirely wrong. If my friend knows it is a strong body, I do wish the evidence had been brought before us.

I do not like my friend's suggestion, which he makes time and again in a sort of veiled, mysterious way, that in what I am saying I have some sinister, ulterior motive.

MR. KELLOCK: Why my friend should always be on the look-out for that I do not know.

MR. McRUER: Because you do it.

THE COMMISSIONER: I used to hear of a body called the Consumers' League. Is that still in existence?

MR. HOOPER: I think the Secretary or the President of it died.

MR. McRUER: I thought the President was Mr. Deachman, and that when Mr. Deachman was elected to parliament the Consumers' League died. I think he carried his efforts into another forum. But we will deal with the organization later.

THE COMMISSIONER: Yes, I shall expect to hear a little more about this.

MR. McRUER: Now I come to page 84 of my brief, which deals with another fabric of print cloth. There are only one or two observations I desire to make in respect to this. Looking at column 4 again, the duty on this calculated on an ad valorem



1911

... I can say very truly that I am  
feeling that it was a very pleasant day, but I  
may be entirely wrong. I say this because it is  
strange, but I do wish the business had been done  
before me.

I do not like my friend's suggestion, which  
he makes time and again in a sort of voluble, un-  
business way, that in what I am saying I have some  
circumstances, either for motive.

Mr. McPherson: My friend should always be  
on the look-out for that I do not know.  
Mr. McPherson: Because you do it.

Mr. McPherson: I used to hear of a party  
called the "Conservative", because it was still in  
the...

Mr. McPherson: I think the secretary on the 1st  
of it died.

Mr. McPherson: I thought the President was  
Debsman, and that when Mr. Debsman was elected  
to represent the "Conservative", because that I think  
he carried his efforts into another form. But  
will deal with the organization later.

Mr. McPherson: Yes, I shall expect to do  
little more about this.

Mr. McPherson: Now I come to the 24th of my list  
which deals with another form of party system.  
There are only one or two observations I desire  
to make in respect to this. Looking at column A  
... is contained on an ad...

5 basis was up to September 1930, 22½ per cent, but the increases which were made by parliament in 1930 brought the duty up to 38 per cent, and the appraisers' bulletin that was sent out was effective in raising it to 86 and 98 per cent.

THE COMMISSIONER: That is the same bulletin ?

10 MR. McRUER: The same bulletin covered this class of goods. Then after it ceased to be effective the duties lapsed back to 40 per cent, and then after the first of January, 1936, the duties are down to 34 per cent as compared with 22½ per cent prior to 1930.

THE COMMISSIONER: That bulletin was April 7, 1932?

15 MR. McRUER: April 7, 1932.

MR. KELLOCK: The excise tax comes under that and accounts for part of the increase.

20 MR. McRUER: No doubt. There were excise taxes imposed in the interval, and that is mentioned in column 6.

Page 14144 follows

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1918

... was up to September 1918, 25 per cent. but  
the interest which were made by Parliament in 1918  
bringing the duty up to 30 per cent, and the amount  
collected that was sent out was effective in relation  
to 25 and 30 per cent.

THE COMMISSIONER: That is the same bulletins?  
MR. WOODMAN: The same bulletins covered this  
... of ...  
the duties imposed ...  
the first of January, 1926, the duties are down to  
24 per cent as compared with 25 per cent prior to

THE COMMISSIONER: That bulletins was ...  
MR. WOODMAN: The engine tax ...  
... for part of the increase.  
MR. WOODMAN: No doubt. There were engine  
taxes imposed in the interval, and that is ...  
in column 6.

1918

Now, there are other exhibits mentioned on page 85 that deal with it in precisely the same way and I am passing over detailed reference to them. What I have said demonstrates the effect of these exhibits.

5 Now, when we come to yarn dyed fabrics there is something different.

THE COMMISSIONER: I see so far you are making all your comparisons in respect to these cotton goods with prices and with importations from the United States?

10 MR. McRUER: Yes, they all deal with United States fabrics.

THE COMMISSIONER: You are not dealing with similar importations from Great Britain?

15 MR. McRUER: Well, we have some. The difficulty we were at with Great Britain -- and we have dealt with some here -- is getting the evidence. Mr. Hooper was able to get Canadian goods and go to the United States and match them up there and get the selling prices over there at different periods of the year, and match the goods  
20 carefully by specifications. Well, we were not able to carry that through with Great Britain in the great detail that we were in the United States.

THE COMMISSIONER: I am right, am I, in thinking that  
25 the major part of our cotton goods importations now are from Great Britain?

MR. McRUER: Oh yes. Just a moment, Mr. Hooper says that is not altogether right, but I am showing that the importations from the United States have diminished  
30 under these tariffs.

THE COMMISSIONER: What you are showing is what might



Now, there are other exhibits mentioned on page 55 that deal with it in precisely the same way and I am passing over detailed reference to them. What I have said demonstrates the effect of these exhibits.

Now, when we come to your third exhibit there is a

THE COMMISSIONER: I see as far as you are making all

comparisons in respect to these cotton goods with the and with importations from the United States?

MR. WOODMAN: Yes, they all deal with United States fabrics.

THE COMMISSIONER: You are not getting with anything importations from Great Britain?

MR. WOODMAN: Well, we have some. The difficulty was not at with Great Britain -- and we have dealt with here -- is getting the evidence. Mr. Cooper was able to get Canadian goods and go to the United States and watch them up there and get the selling prices over at different periods of the year, and watch the goods carefully by specifications. Well, we were not able carry that through with Great Britain in the great detail that we were in the United States.

THE COMMISSIONER: I am right, am I, in thinking the major part of our cotton goods importations now from Great Britain?

MR. WOODMAN: Oh yes. That is correct. Mr. Cooper is that is not altogether right, but I am showing that the importations from the United States have diminished under those conditions.

THE COMMISSIONER: What you are showing is what

have been if it had not been for these high tariffs.

MR. McRUER: Yes, I am showing the protective effect. It is a market that has been excluded, at any rate. Mr. Hooper will get that information. Now, the rate of duty on the particular fabric dealt with at the foot of page 86--

MR. KELLOCK: If you want that information now it follows page 11 of section E of my factum.

THE COMMISSIONER: What is the effect of it?

MR. KELLOCK: Just as your lordship states.

THE COMMISSIONER: The importations come from Great Britain?

MR. KELLOCK: Yes.

THE COMMISSIONER: Well, that is enough about that just now.

MR. McRUER: Well, I have to deal with that now. The way it is put in my friend's factum I submit in fairness is a bit misleading. On page 85, the prevailing rate of duty prior to 1930 --

THE COMMISSIONER: Page 85? That is on yarn dyed fabric?

MR. McRUER: Yes, it is 30% ad valorem.

THE COMMISSIONER: That is, the prevailing rate of duty prior to 1930 was 30% ad valorem.

MR. McRUER: Yes. It was increased to 32 $\frac{1}{2}$ % with a specific duty of 40 cents --

THE COMMISSIONER: 40 cents?

MR. McRUER: 4 cents a pound. It amounted to an increase of 60%. Then,--

" On the 14th of April, 1932, acting under the provisions of Section 36, sub-section 2, of the Customs



...been it it had not been for these high tariffs.  
MR. BRYDIE: Yes, I am assuming the protective effect  
it is a matter that has been excluded, at any rate.  
...will get that information. Now, the rate of  
...on the particular tariff basis with the  
...  
MR. BRYDIE: If you want that information now it is  
...of section 2 of my report.  
THE COMMISSIONER: What is the effect of it?  
MR. BRYDIE: That is your tariff basis.  
THE COMMISSIONER: The information comes from  
...?  
MR. BRYDIE: Yes.  
THE COMMISSIONER: Well, that is enough about that.  
...  
MR. BRYDIE: Well, I have to deal with that now.  
...way it is put in my report's history I submit in fact  
...a bit misleading. On page 8, the new tariff  
...prior to 1930 --  
THE COMMISSIONER: That is on page 8?  
MR. BRYDIE: Yes, it is 50% of value.  
THE COMMISSIONER: That is, the provision is 50%  
prior to 1930 was 50% of value.  
MR. BRYDIE: Yes. It was increased to 30% with  
...of 40 cents --  
...  
MR. BRYDIE: 4 cents a pound. It amounted to 4  
...of 60%. Then --  
...in the tariff of 1911, 1922, acting under the  
...of section 2 of my report.

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"Act, the Department appraised denims and chambrays,  
for duty purposes, on the following basis:

'1st. Goods weighing 2.50 square yards  
per pound, or heavier.....22 $\frac{3}{4}$ ¢ per  
pound

5 2nd Goods weighing lighter than 2.50  
square yards per pound, but not  
lighter than 4.00 square yards  
per pound.....33¢ per  
pound

10 3rd Goods weighing lighter than  
4.00 square yards per pound.....36¢ per  
pound"

So that was an appraisal on a pound basis.

THE COMMISSIONER: That would be another one of  
these bulletins?

15 MR. McRUER: Yes, my lord.

THE COMMISSIONER: The 14th of April, this one.

MR. McRUER: Yes.

THE COMMISSIONER: Is it still in effect.

20 MR. McRUER: I am not just sure when this one ceased.  
I will find out from Mr. Hooper, but I think it was at  
the same time as the rise in prices in the United States.

25 "These values were predicated on a price of raw  
cotton in New York at 7¢ per pound, and for each  
1¢ per pound variation from the raw cotton price, a  
correction of 1.2¢ per pound on the fabric appraised  
was to be applied".

30 That is, they worked it out on a basis of raw cotton at  
seven cents per pound, and as raw cotton rose then this  
correction was applied.

THE COMMISSIONER: Mr. Whiteley just points out to me,



JAN 1911

for duty purposes, on the following basis:

1st. Goods weighing 2.50 square yards

per pound, or heavier.....

2nd. Goods weighing lighter than 2.50

square yards per pound, but not

lighter than 4.00 square yards

per pound.....

3rd. Goods weighing lighter than

4.00 square yards per pound.....

So that we are appraised on a pound basis.

THE COMMISSIONER: That would be another one of

those matters?

MR. BRIDIE: Yes, my Lord.

THE COMMISSIONER: The 14th of April, this one.

MR. BRIDIE: Yes.

THE COMMISSIONER: Is it still in effect?

MR. BRIDIE: I am not just sure when this one was

I will find out from Mr. Cooper, but I think it was

the same time as the rise in prices in the United States

These values were produced on a basis of new

cotton in New York at 7 1/2 per pound, and for each

1 1/2 per pound variation from the new cotton price

variation of 1.25 per pound on the 14th of April

was to be applied.

That is, they worked it out on a basis of new cotton

counts per pound, and as new cotton rose that

variation was applied.

THE COMMISSIONER: That is, the variation was applied

Mr. McRuer, in reference to this bulletin of the 14th of April, 1932, that it was cancelled two years later.

MR. McRUER: Two years later. This, of course, had the effect, as well, of putting on additional duties and the additional excise tax by reason of the increased valuation, and special dumping duty, the total amounting to \$28.24, and the price of this article, the United States selling price was \$80 and the value in Canadian funds \$91.98 so that the increase of \$28.24 was on an article of that value purchase price.

Now, when we come to the flannelette it was dealt with on a different basis. It was a fixed valuation. The rate of duty prevailing prior to September, 1930, was 25%. It was increased to 27½% ad valorem and 4 cents a pound specific, or an increase of 50%. Then, on the 12th of December, 1931, the Minister of National Revenue acting under section 43 of the Customs Act fixed the value for duty of certain articles set out in the bulletin at minimum values. Now, this is a little different than the ordinary fixed value. Mr. Hooper says it is the usual fixed value, but it is different than we have in the case of the rayon where they fixed so much a pound. Yes, this is the one that is fixed as the minimum value. I was confusing them for the moment with something else, stockingette and jersey cloth, that we will come to in a moment. That was done differently.

MR. KELLOCK: Is this a general rate you give here at the foot of page 86?

MR. McRUER: Yes.



Mr. Hooper, in reference to this bulletin of the last  
April, 1933, that it was cancelled two years later.  
Mr. Hooper: Two years later. This, of course, is  
the effect, as well, of putting on additional duties a  
particular article, and the price of this article, the United  
States will have to pay the same as the price in Canada.  
Article of that value purchase price.  
Now, when we look at the illustration in the last  
on a different basis. It was a fixed minimum.  
It was increased to 2 1/2% ad valorem and 4 cents a pound  
it was increased to 2 1/2% ad valorem and 4 cents a pound  
specified, on the basis of 20%.  
of course, 1931, the minimum of 20% was  
setting under section 48 of the Customs Act fixed the  
value the duty on articles imported was to be the  
at minimum value. Now, this is a minimum value  
than the ordinary fixed value. Mr. Hooper says it  
almost fixed value, but it is different than we have  
the case of the rayon where they fixed so much a pound  
Yes, this is the one that is fixed as the minimum value.  
I am not sure that the minimum value is  
representative of the value, that we will come to  
moment. This was the effect.

the last of page 503

Mr. Hooper: Yes.

MR. KELLOCK: It is the general rate?

MR. McRUER: Yes, 25 per cent.

MR. KELLOCK: It is not British preference or intermediate; it is the general rate?

5 MR. McRUER: No, this is still dealing with American cloth.

THE COMMISSIONER: It was a general tariff at this time?

10 MR. McRUER: Yes, and it must have been regarded at this time that competition would come from the United States or this action would never have been taken. This is for the purpose of protecting against competition from the United States.

15 THE COMMISSIONER: I assume there was no threat of any competition from any other country in cottons, leaving out Great Britain?

MR. McRUER: I would think not, unless Japan. This, of course, applied to all countries.

20 THE COMMISSIONER: Yes.

MR. McRUER: Except Great Britain. Now, flannelette--

THE COMMISSIONER: There were no cotton exporting countries to which the intermediate tariff applied?

MR. HOOPER: Japan.

25 THE COMMISSIONER: Japan was on the intermediate and United States on the general; is that right, at this time?

MR. HOOPER: Yes.

30 THE COMMISSIONER: This is 1931. What brought about that state of affairs?



MR. KILGORE: Is it the general rule?

MR. KILGORE: Yes, it is.

MR. KILGORE: It is not a British preference or inferiority?

MR. KILGORE: It is the general rule?

MR. KILGORE: No, this is still dealing with America.

cloth.

THE COMMISSIONER: It is a general tariff on this.

1897.

MR. KILGORE: Yes, and it must have been regarded as

this time that competition would come from the United

States or this action would never have been taken.

This is for the purpose of protecting against competition

from the United States.

THE COMMISSIONER: I assume there was no threat of

competition from any other country in cotton, heavy

and heavy cloth.

MR. KILGORE: I would think not, unless Japan. This

of course, applied to all countries.

THE COMMISSIONER: Yes.

MR. KILGORE: Except Great Britain. Now, I understand

THE COMMISSIONER: There were no cotton exporting

countries to which the intermediate tariff applied?

MR. KILGORE: Yes.

THE COMMISSIONER: Japan was on the intermediate

United States on the general; is that right, or is it

1897.

MR. KILGORE: Yes.

THE COMMISSIONER: This is 1891. What brought about

the change of tariff?

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MR. HOOPER: Well, the United States were not extended the intermediate tariff until the 1st of January, 1936. They had always been under the general tariff until that time.

THE COMMISSIONER: I thought Japan was, too.

MR. HOOPER: No; they were under the intermediate tariff when the treaty was being negotiated --

MR. McRUER: 1913 is when the old Japanese treaty came into effect.

THE COMMISSIONER: When?

MR. McRUER: 1913.

THE COMMISSIONER: That is true. They have been under the intermediate tariff ever since.

MR. McRUER: Well, the value for duty for flannelettes, robe cloths, blanketing, blanket cloths and so on was 40¢ a pound, and weighing less than six ounces per square yard 44¢ a pound. This value was in Canadian funds whereas the values fixed under 36, or the appraisals made under 36 are, of course, in the value of the country of export; you appraise and fix the cost of production plus reasonable cost of selling and profit. That is in the country of export. These are fixed in Canadian funds. Now, when we go to exhibit 855 which deals with --

THE COMMISSIONER: What page is that?

MR. McRUER: Well, I am still at page 88, my lord. It deals with a sample of flannelette which would be subject to this bulletin, a thousand yard piece costing in the United States at the time \$60.11 in Canadian funds which works out at 36 cents a pound. The value





fixed under exhibit 847 is 44 cents a pound or an increase of 22 per cent notwithstanding the fact that the currency exchange rate at that time was 14.49% and the increase in duty due to the special valuation amounted to \$17 or 150% increase. Then we come down to the same article I mentioned, at the foot of the page, with duties worked out on an ad valorem basis at the present time being 34% as against 25% prior to 1930. So that all that shows that in respect to cottons in addition to the increases in 1930 in regard to cotton fabrics between Canada and the United States action was consistently taken to further protect the Canadian manufacturer by action under these relevant sections of the Customs Act, and in many cases the protection he got by reason of that action that was taken by the department was greater than the protection that Parliament had given under the Customs Tariff at any time in the history of the industry.

Now, that brings us now to discuss the important subject of artificial silk yarns, page 89. The history of the tariff item on artificial silk yarns is shown--

THE COMMISSIONER: What sort of yarns are we dealing with now?

MR. McRUER: Well, until we get down to 1936 all artificial silk yarns were under the same item but since 1936 they have been divided between acetate and viscose yarns. The tariff was first imposed in 1923, and when it was put on --

THE COMMISSIONER: Can anybody tell me when artificial silk first became an article of commerce, about how long



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THEY ARE THE ONLY FIRM IN THE CITY WHOSE OFFICE IS IN THE CITY

of 82 per cent notwithstanding the fact that the  
currency exchange rate at that time was 11.40 and  
the increase in duty due to the special valuation  
amounted to \$17 or 150% increase. Then we come down

the same article I mentioned, at the foot of the page,  
duties worked out on an ad valorem basis basis at  
the present time being 54% as against 23% prior to 1914  
so that all that shows that in respect to cotton in

addition to the increases in 1900 in regard to cotton  
fabrics between Canada and the United States action  
was consistently taken to further protect the Canadian  
manufacturer by action under these relevant sections

the Customs Act, and in many cases the protection has  
got by reason of that action that was taken by the  
department was greater than the protection that tariff  
had given under the Customs tariff at any time in the

history of the industry.

now, that brings us now to discuss the important  
subject of artificial silk yarns, page 22. The first

of the tariff law of 1900 which was passed in 1900  
THE OCCASION: What sort of yarns are we dealing

with now?  
MR. MCGURK: Well, until we get down to 1900 all

artificial silk yarns were made in France and in 1900  
1906 they have been divided between Austria and Italy

France. The tariff was first imposed in 1906, and  
it was not until

THE OCCASION: Now anybody tell me when artificial  
silk first began to be made in Canada, that was

ago that was?

MR. McRUER: I think Mr. Jones mentions that in his evidence that was filed at Cornwall, when they really started making artificial silk in England.

5 THE COMMISSIONER: I think somebody did.

MR. McRUER: My own idea is it was about 1917.

THE COMMISSIONER: During the war, I think.

MR. McRUER: You might just have a look in Mr. Jones' evidence, Mr. Walton, and see if you can locate that.

10 When this duty was first put on your lordship will note that it was a very modest duty as we know duties to-day.

THE COMMISSIONER: That is in 1923.

MR. McRUER: 1923.

15 THE COMMISSIONER: That is the first time there was a customs duty put on in Canada against artificial silk yarn?

MR. McRUER: Yes, my lord, and I think it is something in the nature --

20 THE COMMISSIONER: Did they come in free before that, or were they classified along with some other thing?

MR. McRUER: Did they come in free before 1923, or was there such a thing?

MR. KELLOCK: They came under the cotton tariff.

25 THE COMMISSIONER: They were classified with others.

MR. McRUER: Just yarns.

MR. KELLOCK: The cotton schedule.

MR. McRUER: But were they mentioned at all in the cotton schedule?

30 MR. KELLOCK: They were not mentioned, but they were treated under it.



THE COMMISSIONER

MR. MEMBER: I think Mr. Jones mentioned that in his

statement that he had been in the service of the

Government making artificial silk in England.

THE COMMISSIONER: I think you are right.

MR. MEMBER: My own idea is it was about 1917.

THE COMMISSIONER: During the war, I think.

MR. MEMBER: You might just have a look in Mr. Jones

evidence, Mr. Nelson, and see if you can locate that

When this duty was first put on your forehead will not

that it was a very modest duty as we know duties to-

THE COMMISSIONER: That is in fact.

MR. MEMBER: 1923.

THE COMMISSIONER: That is the first time there was

a duty put on in Canada against artificial silk.

any?

MR. MEMBER: Yes, my lord, and I think it is some-

in the notes --

THE COMMISSIONER: Did they come in free before the

we have been classified along with your other things?

MR. MEMBER: Did they come in free before 1923, or

was there a tariff?

MR. KILGORE: They came under the cotton tariff.

THE COMMISSIONER: They were classified with your

MR. MEMBER: Just yours.

MR. MEMBER: The tariff was

MR. MEMBER: But they were not classified as silk in 1917.

to be classified

MR. KILGORE: They were not classified, but they were

classified under it.

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THE COMMISSIONER: Alright.

5 MR. McRUER: The standard of tariff protection that was imposed in 1923 is something that I suggest is more of the nature of the type of protection, if any, that should be levied, or should be permitted in respect to raw materials. Take yarn, for instance; before it is of any use it must be woven. Before the woven fabric is of any use it must be again manufactured into cloth-  
10 ing of some sort so that you have the protection for the weaver, the protection for the manufacturer, the weaver's profit and the manufacturer's profit all pyramiding on the protection that is afforded to the yarn manufacturer. They multiply and pyramid; so for that reason any protection that is afforded to a manufacturer of a raw  
15 material, such as yarn, ought to be a very modest one.

THE COMMISSIONER: Just a minute, Mr. McRuer; Mr. Rene has handed me Mr. Johnson's evidence. Mr. Johnson says in his evidence "we took viscose on about 29 years since because silk was going down". You say "your business  
20 was not originally viscose", and the answer is "no, we took viscose on about 29 years since".

MR. McRUER: They have been in it for a long time then.

THE COMMISSIONER: 1908.

25 MR. McRUER: I think it is safe to say, though, that the evidence rather indicates that it has developed very rapidly during the last ten or fifteen years, especially as far as Canada is concerned. Well then, in 1928 — there seems to be no change in the rate there, Mr.  
30 Hooper?

MR. HOOPER: Just a change in the tariff item.



THE COMMISSIONER: 1908.

was imposed in 1903 is something that I suggest is of the nature of the type of protection, if any, that would be fatal, inasmuch as it is a new material. Take yarn, for instance; before it is of any use it must be woven. Before the woven fabric is of any use it must be again manufactured into the form of some sort so that you have the protection in the weaving, the protection for the manufacturer, the profit and the manufacturer's profit all pertaining to the protection that is afforded to the yarn manufacturer. They multiply and multiply; so for that reason any protection that is afforded to a manufacturer of a material, such as yarn, ought to be a very modest protection. THE COMMISSIONER: Just a minute, Mr. McKee; Mr. Johnson has handed me Mr. Johnson's evidence. Mr. Johnson in his evidence "we took viscose on about 23 years because silk was going down". You say "your business was not originally viscose", and the answer is "no took viscose on about 23 years since".

MR. MCKEE: They have been in it for a long time. THE COMMISSIONER: 1908. THE COMMISSIONER: I think it is very important that the evidence of Mr. Johnson should be taken into account. He is a very experienced man, especially during the last ten or fifteen years, especially as far as Canada is concerned. Well then, in 1908 there seems to be no change in the rate there, Mr. Johnson. THE COMMISSIONER: 1908. THE COMMISSIONER: I think it is very important that the evidence of Mr. Johnson should be taken into account. He is a very experienced man, especially during the last ten or fifteen years, especially as far as Canada is concerned. Well then, in 1908 there seems to be no change in the rate there, Mr. Johnson.

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MR. McRUER: Just a change in the tariff item; from 1923 to 1930 the rate of duty that prevailed was the same. In 1930 the rates were 25%, 30% and 35% with a minimum specific of 28 cents a pound all across, on all three items.

THE COMMISSIONER: Now, we have two manufacturers of artificial silk yarns in Canada, haven't we?

MR. McRUER: Yes, my lord, we have Courtaulds who manufacture viscose and the Canadian Celanese who manufacture acetate yarns, but I don't think they can be really said to be manufacturers of yarns in Canada because they do not sell to the weavers. At least, I think that is a fair statement of the evidence that has been given. They do not sell to the weavers at commercial prices.

THE COMMISSIONER: That is the Celanese people?

MR. McRUER: The Celanese people.

THE COMMISSIONER: They do their own manufacturing.

MR. McRUER: They weave their own goods, and I deal with that extensively in my brief later on, but there is a large volume of evidence directed to show that although they have a monopoly in Canada of the manufacture of acetate yarns they do not sell on a fair basis to the weavers in Canada although the weavers have tried to buy.

Now, in 1934 there was a reduction in the rate under British preference in that the ad valorem duty was reduced and the specific was reduced from 28 cents a pound to 20 cents a pound, under the British preference. Then we come to 1936 --



Mr. McNair: Just a change in the tariff item; from 1923 to 1930 the rate of duty that provided was the same. In 1930 the rates were 25¢, 30¢ and 35¢ with a minimum specific of 25 cents a pound all rates on all three items.

THE COMMISSIONER: Now, we have two manufacturers of artificial silk yarns in Canada, haven't we?

MR. McNair: Yes, my lord, we have companies who manufacture viscose and the Canadian Japanese who manufacture acetate yarns, but I don't think they are really said to be manufacturers of yarns in Canada because they do not sell to the weavers. At least, I think that is a fair statement of the evidence that has been given. They do not sell to the weavers at all.

THE COMMISSIONER: That is the Japanese people?

MR. McNair: The Japanese people.

THE COMMISSIONER: They do their own manufacturing?

MR. McNair: They weave their own goods, and I do with that extensively in my mill I tell you, but that is a large volume of evidence directed to show that although they have a monopoly in Canada of the manufacture of acetate yarns they do not sell on a large scale to the weavers in Canada although the weavers are said to be in Canada.

Now, in 1924 there was a reduction in the rate of British preference is that the 21 various duty was reduced and the specific was reduced from 25 cents to 20 cents a pound, under the British preference

THE COMMISSIONER: There was also an increase from 1928 to 1930 under the intermediate.

SECRETARY WHITELEY: No.

5 THE COMMISSIONER: Oh no, one is cents and the other is percentage; that is quite right. Would you repeat what you said about British preference?

10 MR. McRUER: Under British preference the ad valorem rate was reduced from 25% to 20% and the specific from 28 to 20 cents a pound. Then, in 1936 the item was split into acetate yarns and others which would be really viscose. Acetate yarns under British preference were subject to 5% and no specific duty.

15 THE COMMISSIONER: Just a moment there; acetate was made free under the British preference schedule?

MR. McRUER: No, my lord; the typing is a little confusing there. Your lordship will notice right opposite 2nd of May, 1936 item 558d, 5%.

THE COMMISSIONER: Oh, I see, that refers --

20 MR. McRUER: That refers to the whole thing.

THE COMMISSIONER: Item 558d refers to what was done on the 2nd of May, 1936.

MR. McRUER: Yes, my lord.

THE COMMISSIONER: 5%.

25 MR. McRUER: 5% under British preference and 30% under the intermediate or 28 cents a pound minimum and 35% under the general or 28 cents a pound minimum. Now, that still prevails. There is no change there in regard to intermediate and general. Then, we come  
30 to the other yarns which would be viscose.



under the immediate.

THE COMMISSIONER:

THE COMMISSIONER: On no, one is cents and the other is percentage; that is quite right. Would you report what you said about British preference?

MR. McNEIL: Under British preference the ad valorem rate was reduced from 25% to 20% and the specific from 28 to 20 cents a pound. Then, in 1928 the item was split into acetate yarns and others which would be really viscose. Acetate yarns under British preference were subject to 25 and no specific duty.

THE COMMISSIONER: Just a moment there; acetate made free under the British preference schedule? MR. McNEIL: No, my lord; the typing is a little confusing there. Your lordship will notice right opposite end of May, 1928 item 2524, 25.

THE COMMISSIONER: Oh, I see, that refers to MR. McNEIL: That refers to the whole thing. THE COMMISSIONER: Item 2524 refers to what was done on the 2nd of May, 1928.

MR. McNEIL: Yes, my lord. THE COMMISSIONER: 25. MR. McNEIL: 25 under British preference and 20% under the immediate or 28 cents a pound minimum 25% under the general or 28 cents a pound minimum. Now, that still prevails. There is no change there between immediate and general. Then, no change in the acetate yarns which would be viscose.

THE COMMISSIONER: That is the "N.O.P." there.

MR. McRUER: Yes.

THE COMMISSIONER: Not otherwise provided.

MR. McRUER: Yes.

THE COMMISSIONER: That refers only to viscose?

MR. McRUER: If there are any other artificial silk yarns made it would refer to them. Mr. Hooper mentioned a type yesterday, Bemberg, some other process. Of course, it would be covered by that.

SECRETARY WHITELEY: There are four processes.

THE COMMISSIONER: Mr. Rene has handed me this hand book. Commercial production of rayon yarn in the world apparently began around 1890. It is much older than I thought.

MR. McRUER: Viscose yarn had protection from Great Britain of 20% and from all other countries the same as have prevailed rates prevailed/since 1930, 30 and 35% ad valorem and 28 cents a pound.

Now then, I do not propose to deal in detail with the changes in regard to ply yarns. The reductions under the British preference have not been so great as they were under the others, the single ply.

THE COMMISSIONER: Are there any viscose yarns coming here from Great Britain?

MR. HOOPER: Yes, my lord.

THE COMMISSIONER: Less, though, than acetate?

MR. McRUER: Are there any acetate yarns coming from Great Britain?

THE COMMISSIONER: Which is it that forms the principal matter of import?





12-156  
MR. HOOPER: I think viscose would be the greater.

Viscose is imported in many cases for export.

THE COMMISSIONER: For re-export?

MR. HOOPER: Yes.

THE COMMISSIONER: In the shape of yarn?

MR. HOOPER: Yes, my lord, brought in and woven here and then the fabric is exported.

THE COMMISSIONER: It is woven here?

MR. HOOPER: Woven here.

THE COMMISSIONER: And exported where?

MR. HOOPER: Back to England.

MR. McRUER: It is hard to understand some of these things.

THE COMMISSIONER: Can you tell me substantially whether our imports of artificial silk yarn from Great Britain consist mostly of acetate yarns or viscose yarns?

MR. HOOPER: Do you mean for consumption here?

THE COMMISSIONER: Yes; I thought you would know offhand.

MR. McRUER: These figures are only available since May last, at any rate.

THE COMMISSIONER: Because my attention is attracted to the great decrease in duty on acetate yarns.

MR. McRUER: From what I have heard it made no difference practically.

THE COMMISSIONER: Didn't Mr. Binz tell us it would make a very considerable difference to him?

MR. McRUER: He thought it was going to, but some of these things are a little more difficult. I was



MR. HOOPER: I think viscose would be the answer.  
Viscose is imported in many cases for export.

THE COMMISSIONER: Not re-export?

MR. HOOPER: Yes, at home, brought in and woven

here and then the fabric is exported.

THE COMMISSIONER: It is woven here?

MR. HOOPER: Woven here.

THE COMMISSIONER: And exported where?

MR. HOOPER: Back to England.

MR. HOOPER: It is hard to understand some of these

things.

THE COMMISSIONER: Can you tell me substantively

whether our imports of artificial silk yarn from

Great Britain consist mostly of acetate yarn or of

MR. HOOPER: Do you mean for consumption here?

THE COMMISSIONER: Yes; I thought you would know

of them.

MR. HOOPER: Of see figures are only available since

May last, at any rate.

THE COMMISSIONER: Because my attention is directed

to the great difference in duty on acetate yarn.

MR. HOOPER: From what I have heard it seems to

be a very considerable difference to him?

MR. HOOPER: He thought it was going to, but some

of these things are a little more difficult. I

talking to the Chairman of the Tariff Board about that the other day, and there are some things that are pretty hard to control in the way of control over production of these things abroad. It has been suggested there are world cartels. I think on the evidence it has been denied too, but it has been suggested as well. We might just find out how much artificial silk yarn has come in.

THE COMMISSIONER: Mr. Binz said it would enable him to increase his employment.

SECRETARY WHITELEY: By giving a better fabric.

MR. McRUER: He wanted it for the purpose of mixing in order to improve the appearance and desirability of his fabric.

SECRETARY WHITELEY: The amount he would need would not necessarily be very large.

THE COMMISSIONER: Anyway, he was referring to the acetate, wasn't he?

SECRETARY WHITELEY: Yes.

MR. McRUER: Now, the thing I wish to emphasize is the very heavy increase in tariff protection that was afforded the artificial silk industry -- the yarn industry, in this country in 1930. On importations from the United States prior to that time it had been 20%. In September, 1930, it was increased to 35% or 28 cents a pound, and on the item dealt with in exhibit 863 shown to be an increase of 75%. Then, there are the excise taxes, of course, on top of that, when they became effective. Now, on the 1st of January, 1936



that the other day, and there are some things that  
are pretty hard to control in the way of control  
over production of these things abroad. It has been  
suggested there are world controls. I think on the  
evidence it has been denied too, but it has been  
suggested as well. It might just find out how much  
artificial silk yarn has come in.  
The question is, what is the effect of  
this to increase his employment.  
SPEAKER: By having a better fabric.  
MR. McWHEE: He wanted it for the purpose of raising  
in order to improve the appearance and desirability  
of his fabric.  
SPEAKER: The amount he would need would  
not necessarily be very large.  
THE REPORTER: Anyway, he was referring to the  
SPEAKER: Yes.  
MR. McWHEE: Now, the thing I wish to emphasize is  
the very heavy increase in tariff protection that was  
afforded the artificial silk industry -- the yarn in-  
try, in this country in 1930. On importations from  
United States prior to that time it had been 20%.  
September, 1930, it was increased to 35% or 38 cents  
a pound, and on the item dealt with in exhibit 333  
shown to be an increase of 75%. Then, there are the  
excise taxes, of course, on top of that, when they  
became effective. Now, on the 1st of January, 1931

due to the Canada-United States trade agreement the ad valorem duty was reduced from 35% to 30% by reason of the re-classification, but this does not make any difference in the rate of duty that an importer would pay because the 28 cents a pound is still there and 28 cents a pound minimum on the present value gives a protection of about 49% so that when you put it out of one class into another and still leave the 28 cents a pound minimum it doesn't really mean anything, and the same way with all other countries.

Take, for instance, exhibit 864 which deals with yarns that would be imported from the Netherlands.

THE COMMISSIONER: Where is that exhibit referred to?

MR. McRUER: I just refer to it at the foot of page 90.

THE COMMISSIONER: Yes, I have it.

MR. McRUER: The increase in protection in September, 1930, amounted to 221%. In 1936 the duty and excise taxes payable on yarns selling in the Netherlands at 34.31 cents amounts to 29.87 cents or an ad valorem rate of 87%. So that that indicates how the 28 cents a pound minimum really works. If these specific duties were not minimum duties but if they were maximum duties we would know where we were at a little bit more, but to put on a 30% ad valorem and then say 28 cents a pound minimum, one has never any idea, unless they come to analyzing these things, what that innocent little provision means in the way of actual protection, or, on the other hand, if you are going to have a minimum specific duty to protect against, we will say, some sort



and to the Canada-United States trade agreement the ad  
valorem duty was reduced from 35% to 30% by reason of  
the re-classification, but this does not make any  
difference in the rate of duty that an importer would  
pay because the 28 cents a pound is still there and 28  
cents a pound minimum on the present value gives a  
protection of about 40% so that when you put it out of  
one class into another and still leave the 28 cents a  
pound minimum it doesn't really mean anything, and the  
same way with all other countries.  
That would be imported from the Netherlands.  
THE COMMISSIONER: There is that exhibit referred to  
MR. BRYDIE: I just refer to it at the foot of page  
10.  
THE COMMISSIONER: Yes, I have it.  
MR. BRYDIE: The increase in protection in September  
1930, amounted to 25%. In 1930 the duty and excise  
taxes payable on yarns selling in the Netherlands at  
\$4.51 cents amounts to \$3.57 cents or an ad valorem  
rate of 87%. So that that indicates how the 28 cent  
a pound minimum really works. If these specific duties  
were not minimum duties but if they were minimum duties  
we would know where we were at a little bit more, but  
to put on a 30% ad valorem and then say 28 cents a  
pound, one has never any idea, unless they come to  
considering these things, that that innocent little  
protection means in the way of actual protection, or  
of the actual duty, it is not clear to me a  
practical way to protect against, we will say, the

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of vicious competition from another country that is going to be ruinous to Canadian industry have it at a margin that is reasonable, not at a margin that gives a greater protection than the ad valorem duty, or a greater protection than we would say was reasonably necessary.

Now, from an economic point of view I think this is really a serious thing in Canada, that the whole trade all along the line, the weaving trade, the manufacturing trade, the retail trade and the wholesale trade, should have an obstruction put in the way of the natural flow of trade right at the source. It is dammed at the source when you put a heavy duty on this sort of raw material. Let it down at the source and it flows more freely. The mills can manufacture more cheaply and they can manufacture more and get a greater volume of production. Now,--

"The Canadian weaver paid 65 cents a pound to the Canadian manufacturer for yarns which, except for customs duties, he might buy in the Netherlands for 34.31 cents a pound".

Well, especially when I come to deal with the financial position of these artificial silk companies, how Canadian consumers have actually, in fact, provided them with funds to buy their whole plants and establish here and become healthy and strong to fight, one would feel that they could get along on a raw material that had very much less protection than provided under these tariffs.

Now, exhibit 865 deals with rates applicable on



of various countries from another country that is  
going to be known to Canada. Industry here is not  
weight that is reasonable, not at a margin that gives  
greater protection than the 25 percent duty, or a  
greater protection than we would say was reasonably  
necessary.

Now, from an economic point of view I think that  
really a serious thing in Canada, that the whole trade  
of the world, the retail trade and the wholesale trade, who  
have an objection but in the way of the natural  
of trade right at the source. It is banned at the  
source when you put a heavy duty on this sort of raw  
material. Let it come at the source and it flows  
freely. The mills can manufacture more cheaply and  
they can manufacture more and get a greater volume

of production. Now,--  
The Canadian government paid 65 cents a pound to the  
Canadian government for their wool, except for  
certain duties, he is the only in the world  
at 65.51 cents a pound.

Well, essentially when I come to deal with the  
position of these countries, the countries, for  
them with trade to buy their whole plants and  
have and become heavily and strong to fight, and  
feel that they would get a look on a raw material  
and very much less protection than provided under  
tariffs.

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100 denier yarn produced in Great Britain. The increase in 1930 amounted to 84%. In 1934 the ad valorem duty was decreased from 25 to 20%, or a specific duty of 20 cents, whichever was higher, instead of 28 cents which had prevailed. Now, in 1936, in May, 1936, it was reduced by the abolition of the 20 cents a pound minimum. The rate now applicable in respect to Great Britain is 20% less 10% reduction as against 12½% prevailing before the increases in 1930.

Now, my friends may say this is one of the things dealt with by the Tariff Board. The Tariff Board, acting in its jurisdiction between Canada and Great Britain, has dealt with this although the report is not a final one as yet. That is correct, is it not, Mr. Berry? It is not a final report?

MR. BERRY: I think it is.

MR. McRUER: Is it a final report?

MR. BERRY: Yes.

MR. HALLAM: Except in regard to ply yarns.

MR. McRUER: Except in regard to ply yarns; at any rate, the Tariff Board does not deal with the subject of the duties prevailing under the intermediate and general tariff. Their duty is to interpret the treaty between Canada and Great Britain.

THE COMMISSIONER: Yes. Well, we will think it over for a few moments.

-- The Commission adjourned for a short recess.



was decreased from 25 to 20¢, or a specific duty of 20 cents, whichever was higher, instead of 28 cents which had prevailed. Now, in 1936, in May, 1936, it was reduced by the abolition of the 20 cents a pound minimum. The rate now applicable in respect to Great Britain is 20¢ less 10¢ reduction as against 10¢ prevailing before the increase in 1930.

Now, my friends may say this is one of the things dealt with by the Tariff Board. The Tariff Board, acting in its jurisdiction between Canada and Great Britain, has dealt with this although the report is not a final one as yet. That is correct, is it not, Mr. Gerry? It is not a final report?

-- On resuming at 4.05 P.M.

5 MR. McRUER: On page 92, my lord, we deal with  
the history of the tariff items in respect to Artificial  
silk woven fabrics. Your Lordship will notice that  
the item as it started at the inception of a special  
tariff item covering artificial silk fabric, the  
protection was  $17\frac{1}{2}\%$  under the British Preference,  
32 $\frac{1}{2}\%$  intermediate and 35% general. Now, that continued  
10 from 1923 until 1930. That was at the time that this  
industry was getting on its feet in Canada and got  
on its feet in Canada, as we will see when we analyse  
its record. Then in 1930 it got a very drastic  
additional protection of  $27\frac{1}{2}\%$ , 40% and 45% and 30 cents,  
15 40 cents and 40 cents a pound. These are specifics  
that are not minimum as in the case of yarn but are  
assured in any case and a specific duty of that amount  
plus the ad valorem. Then on the 2nd of May,  
20 1936, the specific was taken off under the British  
Preference but ad valorem increased from  $27\frac{1}{2}\%$  to 30%.

THE COMMISSIONER: On the whole I should imagine  
that was a decrease.

25 MR. McRUER: Well, it would be less than 10%.

THE COMMISSIONER: I mean, when you eliminate the  
30 cents a pound.

MR. McRUER: Yes, that would be a decrease,  
no doubt about that. Of course, under the British  
30 Preference they are entitled to the 10% deduction  
in ---



-- on resuming at 4.05 P.M.

MR. McNEIL: On page 88, my lord, we deal with

the history of the tariff items in respect to artificial

silk. Your lordship will notice that

the item as it started at the inception of a special

tariff item covering artificial silk fabric, the

protection was 17½% under the British Preference,

33½% intermediate and 55% general. Now, that came

from 1933 until 1935. That was at the time that the

industry was getting on its feet in Canada and got

on its feet in Canada, as we will see when we analyze

its record. Then in 1935 it got a very drastic

additional protection of 27½, 40% and 45% and 50% com-

40 cents and 40 cents a pound. These are specific

that are not minimum as in the case of yarn but are

assured in any case and a specific duty of that amount

plus the ad valorem. Then on the 2nd of May,

1936, the specific was taken off under the British

preference and the ad valorem was left. The whole I should imagine

that was a decrease.

MR. McNEIL: Well, it would be less than 10%

THE COMMISSIONER: I mean, when you eliminate the

50 cents a pound.

MR. McNEIL: Yes, that would be a decrease.

THE COMMISSIONER: Yes, that would be a decrease.

MR. McNEIL: Yes, that would be a decrease.

THE COMMISSIONER: Yes, that would be a decrease.

THE COMMISSIONER: That 10% applies?

MR. McRUER: When the goods imported through Canadian ports directly from country of export.

5 THE COMMISSIONER: Does it work out this way if vessel touches a foreign port first, 10 per cent, without any unloading?

10 MR. HOOPER: What particular case have you in mind? In the case of Japanese goods they would be entitled to entry under the intermediate tariff if they came directly into Canada or if they came on direct bill of lading through New York or through the United States to-day because they are an intermediate country.

15 THE COMMISSIONER: You call the United States also an intermediate country?

MR. HOOPER: Yes.

20 THE COMMISSIONER: I can understand that because no matter whether you look to Japan or the United States they are both intermediate countries.

MR. McRUER: This is under the Canada-France Trade Agreement, not under British Preference.

25 THE COMMISSIONER: I just see now it is Canada - France Trade Agreement, and of course applies to the intermediate tariff.

MR. KELLOCK: But the 10% off British Preference is not mentioned.

30 THE COMMISSIONER: But it exists. I thought you were referring us to it here again but it was my



THE COMMISSIONER: That is all right?

Canadian ports directly from country of origin.

THE COMMISSIONER: Does it work out this way if

vessel touches a foreign port first, 10 per cent,

without any drawback?

MR. KENNEDY: That particular case have you in

mind? In the case of Japanese goods they would be

entitled to entry under the intermediate tariff if

they came directly into Canada or if they came on

direct bill of lading through New York or through the

United States to-day because they are an intermediate

country.

THE COMMISSIONER: You call the United States

also an intermediate country?

MR. KENNEDY: Yes.

THE COMMISSIONER: I am wondering what would

be the effect if you look to Japan or the United

States they are both intermediate countries.

MR. KENNEDY: This is under the Canada-France Trade

Agreement, and under other agreements.

THE COMMISSIONER: I just see now it is Canada -

France Trade Agreement, and of course applies to the

intermediate tariff.

MR. KENNEDY: But the 100 off British preference

is not mentioned.

THE COMMISSIONER: But it exists. I thought

you were referring us to it here. Again but it was my

mistake.

MR. Mcruer: Now, in respect to this tariff item covering artificial silk fabric, the wording of the item is important in that it covers:

"Woven fabric, wholly or in part of artificial silk or similar synthetic fibres produced by chemical processes not to contain wool, not including fabric in chief part by weight of silk and not otherwise provided."

So that any cotton fabric that may have a thread of artificial silk in it is subject to this higher protective tariff and that enures to the benefit of the cotton industry as well as the manufacturers of artificial silk.

THE COMMISSIONER: Does that apply under the British Preference as well?

MR. McRUER: Yes. All fabrics come under this general provision with artificial silk, they are artificial silk and subject for purposes of the tariff if they contain any artificial silk.

THE COMMISSIONER: No, they are only artificial silk if they are wholly silk.

MR. McRUER: No, if the fabric contains any artificial silk whatever.

THE COMMISSIONER: If cotton fabric contains a thread of artificial silk it becomes artificial silk?

MR. McRUER: Yes, for the purpose of the tariff and in that way the cotton manufacturers have a very



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MR. MORRIS: Now, in respect to this tariff item

covering artificial silk fabric, the wording of the

item is important in that it covers:

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THE COMMISSIONER: No, they are only artificial

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MR. MORRIS: No, if the fabric contains any

artificial silk whatever.

THE COMMISSIONER: If cotton fabric contains a

thread of artificial silk it is subject to the tariff

and, MORRIS: Yes, for the purpose of the tariff

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real additional protection in that. An article that may be 90% cotton is really kept out because they could not afford to pay the customs tariff based on this basis.

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THE COMMISSIONER: What is the effect then, dealing with artificial silk saying, "wholly of artificial silk"?

MR. McRUER: Well, I would not think that artificial-

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THE COMMISSIONER: Does that mean anything?  
I mean, the language used here, it says, woven fabrics composed of artificial silk and second line composed wholly of artificial silk.

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MR. McRUER: Wholly or in part.

THE COMMISSIONER: The language says composed wholly of artificial silk.

MR. HOOPER: At one time, Mr. McRuer ---

THE COMMISSIONER: That should be wholly or in part.

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MR. HOOPER: At one time the rate was lower on fabric composed wholly of artificial silk. During the period of 1928 to 1930 you will notice that the rate was lower on fabric wholly of artificial silk than on fabric composed in part of artificial silk, but in 1930 the rate became the same for any fabric whether composed wholly or in part of artificial silk.

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THE COMMISSIONER: It is misleading the way it is put here.

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MR. McRUER: It is quite clear there. , It is



real additional protection in that. An article  
that may be 30¢ cotton is really kept out because  
that article has failed to get the same tariff as  
the other article.

THE COMMISSIONER: That is the effect then, feeling  
with artificial silk saying, "Wholly of artificial  
silk."

MR. MORRIS: Well, I could not think that artificial  
THE COMMISSIONER: Does that mean anything?  
I mean, the language used here, it says, woven fabrics  
composed of artificial silk and second line and used  
wholly of artificial silk.

MR. MORRIS: Wholly or in part.  
THE COMMISSIONER: The language says composed wholly  
of artificial silk.

MR. MORRIS: At one time, Mr. Morris ---  
THE COMMISSIONER: That should be wholly or in part.  
MR. MORRIS: At one time the rate was lower on

artificial composed wholly of artificial silk. During the  
period of 1888 to 1890 you will notice that the rate  
was lower on fabric wholly of artificial silk than on  
fabric composed in part of artificial silk, but in 1890  
the rate became the same for any fabric whether composed  
wholly or in part of artificial silk.

THE COMMISSIONER: It is misleading the way it is  
stated. It is false to say that.

divided into two parts. The first part gives the history from 1923 to 1928, 1930 and 1936 on articles composed of wholly artificial silk, and then down below it gives the rate for articles composed in part of artificial silk.

THE COMMISSIONER: During the same period?

MR. McRUER: And they are just the same with the exception of period 1928 to 1930 on the articles composed in part of artificial silk the rate was 20% as against 17½% on artificial silk. You see it has gone completely the reverse now because the article that was partly of artificial silk had a higher protection on it than the artificial silk.

THE COMMISSIONER: It did in 1928 to 1930?

MR. McRUER: Yes.

THE COMMISSIONER: But I thought you said a moment ago that if an article contains any portion of artificial silk it is classified as artificial silk?

MR. McRUER: Yes, so they are. They are merged in 1930.

THE COMMISSIONER: And the duty increased?

MR. McRUER: Duty increased and they were merged. So that prior to 1930 artificial silk I think on the whole was on a lower rate of duty than cotton. At least, certainly than some cottons. That is correct?

MR. HOOPER: Under the British Preference, yes.

MR. KELLOCK: The top of next page is your



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divided into two parts. The first part gives the history from 1923 to 1928, 1930 and 1935 of articles composed of wholly artificial silk, and then down below it gives the rate for articles composed in part of artificial silk.

THE COMMISSIONER: During the same periods? MR. MONTGOMERY: And they are just the same with the exception of period 1928 to 1930 on the articles composed in part of artificial silk the rate was 80% as against 17 1/2% on artificial silk. You see it has gone completely the reverse now because the article that was partly of artificial silk had a higher protection on it than the artificial silk.

THE COMMISSIONER: It did in 1923 to 1930? MR. MONTGOMERY: But I thought you said a moment ago that if an article contains any portion of artificial silk it is classified as artificial silk?

MR. MONTGOMERY: Yes, so they are. They are not in 1935.

THE COMMISSIONER: And the duty increased? MR. MONTGOMERY: Duty increased and they were merged. So that prior to 1930 artificial silk I think on the whole was on a lower rate of duty than cotton. At least, generally speaking, and that is correct. MR. MONTGOMERY: Under the British system, yes. MR. MONTGOMERY: The rate of duty was 10%.

statement.

MR. McRUER: Your Lordship will remember that during the hearing I think some evidence was read into the evidence at Three Rivers, where after 1930 certain corset manufacturers had protested quite strenuously in regard to the great increase that had taken place in the rates of customs duties on mixtures of cotton and artificial silk, and the interference that took place in regard to their business, and the Wabasso Company had protested against any reduction in the rate that had been established for these mixtures and although they protested successfully I think the evidence showed that the Wabasso Company went out of manufacturing the mixtures later on, but it does not seem to be just that the same rate should prevail irrespective of the quantity of artificial silk contained in the fabrics. I don't know what foundation there is for it but we do find this: That prior to 1930 there were many cases where the tariff items were split so that lower priced goods were on a lower scale of tariff and in 1930 they were all put together on the one higher scale, and this is one of them. When I come to hosiery I intend to emphasize another there but here the mixture, which would be lower priced goods - although the reverse is true here, the mixtures really have a higher protection before 1930, but they brought the whole thing up so high and then put it on the specific duty, which is poundage duty



MR. MORRIS: Your Honorship will remember that during the hearing I think some evidence was read in the evidence of the witness, and that the witness testified that the manufacturers had protested and strenuously in regard to the great increase that had taken place in the rates of customs duties on mixtures of cotton and artificial silk, and the interference that took place in regard to their business, and the witness Company had protested against any reduction in the rate that had been established for these mixtures, although they protested successfully I think the evidence shows that the witness Company went out of manufacturing the mixtures later on, but it does not seem to be that the same rate should prevail irrespective of the quantity of artificial silk contained in the fabrics. I don't know that I should think it is for it but we do find this: that prior to 1930 there were many cases where the tariff items were split so that lower priced goods were on a lower scale of tariff and in 1930 they were all put together on the one higher scale, and this is one of them. When I come to history I intend to emphasize another there but here the mixture, which would be lower priced goods - although the reverse is true here, the mixture was split so that lower priced goods were on a lower scale of tariff and in 1930 they were all put together on the one higher scale, and this is one of them.

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and I would think that the cotton mixtures would be heavier than the artificial silk. I don't know that to be true. We have no evidence on it at any rate.

MR. HOOPER: Cotton mixtures would be cheaper.

5 MR. McRUER: Yes, but would not they be heavier according to the poundage.

MR. HOOPER: It all depends on the fabrics.

10 MR. McRUER: On the 12th of December, 1931, according to Exhibit 807, the Minister of National Revenue fixed the value for duty purposes at a \$1.25 a pound and this remained in effect until cancelled on the 27th of December, 1935. So that the industry had the benefit of that additional protection from 1931 to 1935.

15 Now, exhibit 866 deals with 12 rayon fabrics as sold in the United States and Canada in October 1936. The first two fabrics are fabrics sold in the United States and have a cotton warp yarn and rayon filling and an adjustment was made in the American selling prices of 30 cents a pound to allow for the difference in the cost, and that would bring the American selling price of these fabrics to \$1.25 per pound and \$1.27 per pound.

20 Now, the reason that I am emphasizing particularly these two fabrics is because they are fabrics that would compete ordinarily with the Ming Toi fabric of the Montreal Cottons, which is said to be the fabric that is affected by the Japanese rayon taffeta, that is, 27" rayon taffeta. Now, the

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and I would think that the cotton mixtures would be heavier than the artificial silk. I don't know that to be true. We have no evidence on it at any rate.

MR. HOSKINS: Cotton mixtures would be cheaper.

MR. HOSKINS: Yes, but would not they be heavier according to the poundage.

MR. HOSKINS: It all depends on the fabric.

MR. HOSKINS: In the 10th of December, 1931, according to Exhibit 307, the Minister of National Revenue fixed the value for duty purposes at \$1.35 a pound and this remained in effect until cancelled on the 10th of December, 1932. So that the industry had the benefit of that additional protection from 1931 to 1932.

Now, Exhibit 308 deals with 12 rayon fabrics as sold in the United States and Canada in December 1932. The first two fabrics are fabrics sold in the United States and have a cotton warp yarn and rayon filling and an adjustment was made in the American selling prices of 30 cents a pound to allow for the difference in the cost, and that would bring the American selling price of these fabrics to \$1.35 per pound and \$1.37 per pound. Now, the reason that I am emphasizing particularly these two fabrics is because they are fabrics that would compare ordinarily with the King Ray fabric of the American cottons, which is said to be the fabric that is being sold in the United States.

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Canadian price for the Ming Toy, the similar fabric, is \$1.85 per pound, and then after it had got some competition from Japan it came down to \$1.60 per pound, but still it is 37 cents a pound over the corresponding price in the United States. As to the other fabrics we find that the Canadian prices I think are in most cases lower than the American prices. Now, when we go to Exhibit 867, which shows the mill spread of Canadian Cottons on their 27" plain rayon taffeta, on the 31st of October it was \$1.05 a pound. On the 10th of December, three days after the fixed valuation went on, the Canadian Mill spread was \$1.24 a pound and the price was increased by 19 cents a pound. So that rather emphasizes how these fixed valuations enure to the benefit of the mills and that they took advantage of them. Now, again, although these companies, undertook with the Government not to increase prices above the prices prevailing in September, 1930, where we have a decline in world prices and then a special valuation put on and then an increase in the Canadian mill spread to this extent and increase in the prices and no increase but, on the other hand, a decrease in wages, it does seem that the Canadian mills were not carrying out the spirit of the undertaking. In 1932 the Canadian Mill spread was increased to \$1.23 and rayon yarns dropped 4 cents a pound. So that we find a rather material drop in rayon yarn and the mill spread still going up, and how little the price



Canadian price for the King Toy, the smaller fabric,  
is \$1.85 per pound, and then after it had got some  
competition from Japan it came down to \$1.60 per pound  
but still it is 37 cents a pound over the corresponding  
value in the United States.  
At this time the Canadian price is about  
50 cents lower than the American price.  
So to Exhibit 307, which shows the mill output of  
cellulose pulp in 1930. It shows that  
on the list of October it was \$1.45 a pound. In the  
first of December, three days after the first of  
January, the Canadian mill output was \$1.44 a pound  
and the price was increased by 19 cents a pound.  
That rather emphasizes how those fixed valuations are  
to the benefit of the mills and that they took advantage  
of them. Now, again, although these companies,  
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above the prices prevailing in September, 1930, when  
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In 1932 the Canadian mill output was increased to  
and prices dropped 4 cents a pound. So that  
in 1932 a further drop in prices from 1930 and  
that would still show that the

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of the fabric was governed by the price of the rayon yarn is shown by an examination of Exhibit 867. In February, 1934, although the price of the rayon yarn had dropped to 70 cents a pound, the price of the fabric was \$2.01 with a mill spread of \$1.31, being the largest mill spread of any period from 1931 to 1936. So that we are able in this case to get definitely the price of the raw material because we are able to establish the rayon yarn selling price, we are able to establish the mill spread they have for themselves and I emphasize that in regard to this mill because it is one of them that made such strong representations in 1930 to secure these tariff increases, and has certainly made such strong protest against receiving any competition from Japan or any other place.

THE COMMISSIONER: What mill do you refer to?

MR. McRUER: The Canadian Cotton mills. Mr. Dawson has been the one who has, I think, been most instrumental in protesting on their behalf and it is the mill that was to suffer, according to the statements made, such a catastrophe due to competition from Japan.

Now, in regard to "Natural silk fabrics," tariff items have been in effect since 1907 at least, but there has been very little broad silk industries, if any, in Canada prior to 1923. The tariff up until that

time I do not think it could be said to be a protective tariff because I do not think there was any substantial industries here to protect. It could only be



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to establish the mill spread they have for themselves  
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certainly made such strong protest against receiving  
any competition from Japan or any other place.  
THE COMMISSIONER: That will do you refer to?  
...has been the one who has, I think, been most harm-  
mental in protesting on their behalf and it is the mill  
that was to suffer, according to the statements made,  
Now, in regard to "artificial silk fabrics," tariff incre-  
have been in effect since 1907 at least, but there has  
been very little growth in the industry, if any, in  
I do not think it could be said to be a protected  
industry I do not think there was any substantial

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considered as a revenue tariff. That is in regard to the broad silk items. It was under these tariff rates that prevailed from 1907 to 1930 that the industry came here and established itself. The broad silk industry started in Canada practically in 1923, so that we have a customs tariff prevailing in the country, we have the industry coming here and starting up and then in 1930 getting increases. Under the British Preference the increase was from  $17\frac{1}{2}\%$  to  $27\frac{1}{2}\%$ . Under the Intermediate from  $32\frac{1}{2}\%$  to 40% plus 10 cents per lineal yard. The increase between 1928 - 1930 was from  $32\frac{1}{2}\%$  per cent. to 40% and then in 1931 there was a further increase by adding the specific duties. So that there was two steps there. There was 1928-1930 and then again the specific duties were added, 10 cents a yard, in 1931.

Now, I do not intend to deal in detail with the ribbons and narrow fabrics.

It is fair to say this in respect to the broad silk industry, that there is no evidence before the Commission that the prices that have been charged by the Members of the Broad Silk Industry in Canada have been excessive. The evidence is rather the other way. As I point out in my factum, Mr.

Switzer, who was a buyer from Eaton's, said in the Silk Industry where the tariff was prohibitive, the price was 55 cents less than it was before the



considered as a revenue tariff, that is to say  
to the broad silk industry. It was under these tariffs  
that the silk industry in Canada was established. The broad  
silk industry started in Canada practically in 1903,  
so that we have a customs tariff prevailing in the  
country, we have the industry coming here and starting  
up and then in 1930 getting increases. Under the  
British preference the increase was from 17 1/2 to 22 1/2.  
Under the Intermediate from 22 1/2 to 40 plus 10 cents  
per pound. The increase between 1930 and 1931  
was from 32 1/2 per cent. to 40 and then in 1931 there  
was a further increase by adding the specific duties.  
In 1930 and then again the specific duties were added,  
10 cents a yard, in 1931.  
Now, I do not intend to deal in detail with the  
tariff on broad silk.  
It is to be seen to say this in respect to the broad  
silk industry, that there is no evidence before the  
Commission that the prices that have been charged  
by the Members of the Broad Silk Industry in Canada  
have been excessive. The evidence is rather the  
other way, as I point out in my statement, Mr.  
Wheeler, was a buyer from Boston, and in the  
silk industry where the tariff was prohibitive, the  
prices were 25 cents less than it was before the

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tariff increases. He attributed this to internal competition and the low price of raw silk.

THE COMMISSIONER: Just a minute, low price of raw silk. That, of course, is imported material. It is subject to a duty.

MR. McRUER: No, excise tax only, 3%. There are in Canada a number of independent mills and these mills have increased, according to Mr. Howson's statement - in 1930 there were nine weavers of silk fabrics in Canada and by 1935 there were sixteen. But if we are to judge from the history of other textile industries what will happen unless there is some course taken, that these mills which have been getting along very well competing with one another - I think things have been coming along pretty well for them in Canada during the depression period. But what will happen? - and I am not saying this in the way of prophecy but judging from what happened in the cotton industry and reading the story of it, that they will start amalgamating, steps will be taken to eliminate competition between them and unless they are subjected to competition from abroad, which will protect the consumer against prices which may be raised beyond all bounds of reasonableness, steps will be taken in this way to merge and amalgamate these companies with the same results as in the cotton industry, which has not been in the interests of either the consumers nor the workers.



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THE COMMISSIONER: Just a minute, for price of raw

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MR. KENNEDY: No, excise tax only, 3%.

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But if we are to judge from the history of other

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getting along very well competing with one another.

I think things have been coming along pretty well

for them in Canada during the depression period.

Are you still hopeful? - and I am not saying this

in the way of prophecy but judging from what has happened

in the cotton industry and reading the story of it,

and they will start manufacturing, there will be

some to eliminate competition between them and also

they are subjected to competition from abroad.

which will protect the consumer against prices which

may be raised beyond all bounds of reasonableness.

There will be taken in this way to merge and amalgamate

and the result is in the cost

of production, which has not been in the interests of

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THE COMMISSIONER: You refer to mergers, amalgamations and trade agreements?

MR. McRUER: Yes, my lord.

5 THE COMMISSIONER: According to you you are uttering a warning now unless steps are taken to prevent the silk mills entering into mergers, trade agreements, the present satisfactory condition of things from the consumer's point of view, may not exist.

10 MR. McRUER: Yes. There are one or two things that have affected particularly silk industry, the broad silk industry, and that is, the manufacture of rayon has brought down the price of broad silk. Another thing is that there has been intensive competition amongst the mills themselves. They have said that. There have been attempts made from time to time, through Mr. Hallam, and with this I will deal later on, to regulate that production and to fix  
15 prices.  
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MR. KELLOCK: No, no evidence of that.

MR. McRUER: With the broad silk?

MR. KELLOCK: No.

25 MR. McRUER: I think my friend is correct, that there is not evidence of fixing of prices in the broad silk. That is quite correct. What I pointed out earlier, and will point out again, that course was taken through attempts to regulate production, but most of those broad silk manufacturers are also  
30 manufacturers of rayon and artificial silk fabric,



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THE COMMISSIONER: You refer to mergers, amalgamations

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MR. MCGILL: Yes, my lord.

THE COMMISSIONER: According to you you are referring

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MR. MCGILL: I think my friend is correct, that

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ducing. That is quite correct. That I pointed

out earlier, and will point out again, that course

was taken through attempts to regulate production,

and that of course, with the result that the

production of rayon and artificial silk fabric,

and the history throughout Canada of the cotton industry was, and we show it as we deal with the industry - you have this mill and that mill that is going along very nicely making very nice profits and then they are gradually brought together in an amalgamation in one large unit, mills closed here and there and other places, with the result that the element of competition is eliminated, and that is one of the reasons put forward by the Dominion Textile Company as to why they should be entitled to earn big profits is because they did eliminate competition and that was a valuable asset. I will deal with that later.

THE COMMISSIONER: You mean good will?

MR. McRUER: Well, that was very good will. And I think it is important to this Commission that very fact, that there are some things in the past we cannot correct. We have gone that way and we have passed over the road and we cannot retrace our steps without some very drastic commercial upheaval in the countries, and I am not suggesting such explosive method, but when we see what roads we have trod in the past and look forward and see exactly the same thing for the future, then we have to consider in what way we can protect the consumer, and one way that I see in regard to the silk industry that we can protect the consumer and that is by giving him the benefit of a lower tariff wall over which goods may come in, should there be any effort on the part of the Canadian



and the industry is now in a position to

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we can protect the consumer, and one way that I see  
in regard to the silk industry that we can protect  
the consumer and that is by giving him the benefit  
of a law which will cover which goods may come in

producer to get together and raise prices to such an extent it would be unreasonable to the consumer.

5 THE COMMISSIONER: Does not the law now provide for that very thing? If it is made to appear to the Government that any industry is making use of the customs tariff to do what you apprehend, that steps may be taken to pull the tariff wall down?

10 MR. McRUER: There is provision of Section 17 of the Customs Tariff Act but it has only been known -- it was known to operate once I think in connection --

THE COMMISSIONER: But still it is there.

MR. McRUER: Yes.

15 THE COMMISSIONER: "In the event of producers of goods taking advantage of any duty imposed under this Act to increase the price of such goods to the consumer, or using any such duty to maintain prices at levels deemed by  
20 the Governor in Council to be higher than should prevail, having regard to general economic conditions in the country, the Governor in Council may reduce or remove such duty."

25 The power is there.

MR. McRUER: Oh, it is an entirely different thing that I suggest.

30 THE COMMISSIONER: No, you were saying that if the silk companies become perverted and take steps which would increase or enhance unduly the price of their goods to the consumer, then there should be some



MR. WATKINS: It is an entirely different matter.

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power somewhere to handle a situation like that.

That is what you said.

5 MR. McRUER: Yes. It is power to handle that situation that I think we require more than anything else.

THE COMMISSIONER: Would you favour something that would prevent mergers and amalgamations and trade agreements?

10 MR. McRUER: That is a secondary step as well.

THE COMMISSIONER: What is the first step?

15 MR. McRUER: The primary step is a tariff protection that it would not make things so profitable to them that they could do that. If they raised the price too high foreign goods would come in.

THE COMMISSIONER: There is what you would call a high tariff now against foreign silk?

MR. McRUER: Yes.

20 THE COMMISSIONER: You say they have not taken advantage of that. You say their prices are reasonable to the consumers?

25 MR. McRUER: Yes, I do not think you could say anything else.

THE COMMISSIONER: If they depart from that path of rectitude and start to unduly enhance their prices, section 17 says that the Government might do to them but you say that is not enough.

30 MR. McRUER: I say that is not enough because you have to start a course of action to show certain



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power anywhere to handle a situation like that.

That is what you said.

MR. HAYDIE: Yes, it is power to handle that.

With that I think we require more than anything

else.

THE COMMISSIONER: Would you favor something that

would prevent mergers and amalgamations and trade

agreements?

MR. HAYDIE: That is a secondary step as well.

THE COMMISSIONER: What is the first step?

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THE COMMISSIONER: There is what you would call

a high tariff now against foreign silk.

MR. HAYDIE: Yes.

THE COMMISSIONER: You say they have not taken

advantage of that. You say their prices are not

able to the consumers?

MR. HAYDIE: Yes, I do not think you could say

that is so.

THE COMMISSIONER: It is not the same thing.

With the tariff and start to make sure their

prices, section 17 says that the Government might do

to make sure you say that is not enough.

THE COMMISSIONER: I am not in any way saying you

are in any way saying that is not enough.

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things. The tariff should never be so high that if people were taking undue advantage of it foreign goods would not flow in.

5 THE COMMISSIONER: That is to say, this silk industry is one of the sleeping dogs that should not be allowed to lie. It may come around one day.

10 MR. McRUER: Well, it is an example of this - that if you provide in a time of depression a very high tariff wall and then just leave it there, in a time of prosperity it gives those that work behind it the opportunity to more or less devour the consumer, so to speak. What I suggest is that there should not be some governmental trial or something of that sort to show they are doing something improper. That is awfully difficult for consumers to do. They just pay their money and that is all. There should be a natural flow of competition certainly. 15 We should not have a tariff wall that is higher than they require, and that is what we have got now. They say - we don't keep our prices up to that tariff, we don't take advantage of it. Probably not.

20 THE COMMISSIONER: You have been giving a certificate to the silk industry. Does that apply to all the silk industries?

25 MR. McRUER: I am talking about the broad silk. That is as far as Mr. Switzer ---

30 THE COMMISSIONER: Mr. Switzer was only speaking for the broad silk.



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 if people were taking undue advantage of it foreign  
 goods would not flow in.

THE COMMISSIONER: That is to say, this silk industry  
 is one of the sleeping dogs that should not be allowed  
 to lie. It may come around one day.

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 that if you provide in a time of depression a very  
 high tariff wall and then just leave it there, in  
 a time of prosperity it gives those that work behind  
 it the opportunity to move or less favour the consumer  
 no to speak. What I suggest is that there should  
 not be some governmental trial or something of that  
 sort to show they are doing something improper.

That is really difficult for consumers to do.  
 They just pay their money and that is all. There  
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 We should not have a tariff wall that is higher than  
 they require, and that is what we have got now.  
 They say - we don't keep our prices up to that  
 tariff, we don't take advantage of it. Probably not.

THE COMMISSIONER: You have been giving a cer-  
 tificate to the silk industry. Does that apply to  
 all the silk industries?

MR. MCKENZIE: I am talking about the broad silk.  
 --- as Mr. Switzer ---

MR. SWITZER: Mr. Switzer was only speaking of  
 the broad silk.

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MR. McRUER: Yes, and I am merely going on the evidence that is before the Commission in regard to that, and I think it has been mentioned at different times.

5 THE COMMISSIONER: But you reserve the right perhaps to make different remarks about different branches of the silk industry.

MR. McRUER: Yes, and I have very much to say about the conduct of the silk industry later on.

10 THE COMMISSIONER: In other respects?

MR. McRUER: Yes, and in respect to their efforts to control production and control competition.

15 THE COMMISSIONER: That would be trade agreement?

MR. McRUER: Yes.

THE COMMISSIONER: Have you anything to say against the Broad silk industry?

10 MR. McRUER: Well, they are the same people but they manufacture rayon products as well. All I am saying is I am talking about broad silk.

THE COMMISSIONER: All you mean is the present prices to consumers are reasonable?

25 MR. McRUER: There is no evidence that they are unreasonable.

THE COMMISSIONER: That means that mergers and amalgamations have not yet begun.

MR. McRUER: No.

30 THE COMMISSIONER: You do not say the trade agreements have not yet begun?





MR. McRUER: No. They are gathering some experience.

MR. KELLOCK: Which, the broad silk?

MR. McRUER: Yes.

THE COMMISSIONER: All right, that is starting point.

MR. McRUER: In respect to blankets and rugs, I submit that the tariff protection to the manufacturers of these types of fabrics is really out of all proportion to what one would think should be normally required. It is very difficult in analysing a protection that exists now and has existed since 1930, to know on what principle it has been adopted, because sometimes it is so much greater than others. Now, take the blankets wholly of wool and blankets wholly of cotton.

THE COMMISSIONER: Silks do not come into this at all?

MR. McRUER: No, we are through with silks so far as duties are concerned. This is at page 97. They are 22½%, 30% and 35%, and 25%, 30% and 35% respectively from 1907 to 1922. Then in 1922 it was amended to cover blankets of any material and the rates were 22½%, 30% and 35%.

THE COMMISSIONER: That was the same as previously?

MR. McRUER: No, it was really a reduction in respect of the British Preference on blankets wholly of cotton.



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MR. MORRIS: No, they are not the same.

experience.

MR. KILGORE: Which, the broad silk?

THE COMMISSIONER:

MR. MORRIS: All right, that is all right.

MR. MORRIS: In respect to blankets and rugs,

I admit that the tariff protection to the manu-

facturers of these types of fabrics is really one of

all proportion to what one would think should be

normally required. It is very difficult in such a

a protection that exists now and has existed since

1890, to know on what principle it has been adopted,

because sometimes it is so much greater than others.

Now, take the blankets wholly of wool and blankets

of other materials.

THE COMMISSIONER: Silks do not come into this

at all.

MR. MORRIS: No, we are concerned with silks so

far as duties are concerned. This is at page 27.

Now we have, and we have, and we have, and we have

respectively from 1907 to 1922.

Then in 1923

it was amended to cover blankets of any material

THE COMMISSIONER: That was the same as before

MR. MORRIS: No, it was really a reduction in

tariff on the British Protection on blankets

THE COMMISSIONER: The first item you read.

MR. McRUER: They were amalgamated in 1922,  
the two items were brought together. There is a  
slight difference under the British Preference.  
In 1928 woollen blankets were the same, cotton blankets  
were reduced.

MR. HALLAM: They were 10% less.

MR. McRUER: In 1928 they would be less  
10%, that is, under British Preference.

THE COMMISSIONER: So that item, less 10% under  
British Preference, began in 1928?

MR. HOOPER: No, 1923, my lord.

MR. McRUER: In September 1930, under Tariff  
item 553, blankets of wool and cotton were again  
merged, and the rates were 22½% and 20 cents a pound,  
30% and 25¢ a pound and 35% and 30¢ a pound.  
Then in May 1932, under the British Preference,  
the specific was reduced to 10¢.

Then under rugs, I do not think I shall deal  
with that in detail. Very much the same general  
process was gone through, with a drastic upward  
revision in 1930. Then we go to Exhibit 871  
which illustrates the effect of the rates of duty  
prevailing since January, 1930, in respect to cotton  
and woollen blankets. That is, not less than 5%  
wool, and imported from the United States under  
Tariff item 553.



THE COMMISSIONER: The first item you read.  
MR. MURPHY: They were amalgamated in 1931.  
the two items were brought together. There is a  
In 1938 woolen blankets were the same, cotton blankets  
were reduced.  
MR. MALLAM: They were 10% less.  
MR. MURPHY: In 1938 they would be less  
10%, that is, under British Preference.  
THE COMMISSIONER: So that item, less 10% under  
British Preference, began in 1938?  
MR. MURPHY: In September 1930, under Tariff  
item 555, blankets of wool and cotton were again  
merged, and the rates were 32½¢ and 30 cents a pound,  
30¢ and 25¢ a pound and 35¢ and 30¢ a pound.  
Then in May 1932, under the British Preference,  
the specific was reduced to 10%.  
Then under 788, I do not think I shall deal  
with that in detail. Very much the same general  
process was gone through, with a drastic upward  
revision in 1930. Then we go to Article 571  
which illustrates the effect of the rates of duty  
prevailing since January, 1930, in respect to cotton  
and woolen blankets. That is, not less than 32½¢  
and 30¢ a pound.

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THE COMMISSIONER: Those are a mixture.

MR. McRUER: Well, if it is cotton or not less than 5% wool - yes, a mixture. It will be noted that in January, 1931, the ad valorem rate of 35%, which had prevailed prior to September, 1930, and which would have imposed a customs duty of \$56.82 on the importations---

THE COMMISSIONER: On how much money? On what importations?

MR. McRUER: The value for duties was \$102.33.

THE COMMISSIONER: That is not shown?

MR. McRUER: No, it is referring to Exhibit 871, It is in the Exhibit.

THE COMMISSIONER: This would be then that the rate which ~~re~~ prevailed prior to September would have imposed a customs duty of \$162.80 on importation of what?

MR. McRUER: \$162.33. The specific duty was \$105.00 on 100 pairs of blankets costing in the United States \$162.33. That is on the next page, page 99.

(Page 14190 follows)



1911

of the committee: There was a mistake.

MR. MORRIS: Well, it is in cotton or not

less than 3000 - yes, a mixture. It will be noted

that in January, 1901, the 25 value rate of 20%

which had prevailed prior to September, 1900, and

which would have imposed a customs duty of 20%

in the same way.

THE COMMISSIONER: On how much money? On what

amount?

MR. MORRIS: The value for duties was \$100,000.

THE COMMISSIONER: That is not shown

MR. MORRIS: No, it is referring to Exhibit 271,

it is in the exhibit.

THE COMMISSIONER: This would be then that the

rate which -- prevailed prior to September would

have imposed a customs duty of \$100,000 on imports

of that?

MR. MORRIS: Yes, that is correct.

was \$100,000 on 100 tons of blankets costing in the

market about \$100,000. That is all the next

page, 272.

(Page 272)

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MR. McRUER: Or equal to 65 per cent ad valorem duty. That is the effect of the specific duty. The total duties payable on this importation would therefore amount to an ad valorem duty of 100 per cent.

Then in addition to that the Canadian manufacturer had the benefit of an additional 3 per cent excise tax, which was the equivalent of an additional 6 per cent ad valorem duty because the duties were 100 per cent of the cost of the goods and the 3 per cent excise tax was imposed on the duty-paid value, so that it really equalled an additional 6 per cent ad valorem.

In April, 1936 -- now we get back to the position where we are now -- on 100 pairs of blankets costing \$171.48 in the United States an ad valorem duty of 30 per cent would be payable, or \$51.60, and a specific duty of 25 cents a pound, amounting to \$87.50, together with an excise tax of \$9.33, or a total of \$148.43, being the equivalent of an ad valorem duty of 87 per cent as against 35 per cent prevailing prior to September 1930.

So we see that the Canada-United States trade agreement, so far at any rate as blankets are concerned, had rather a feeble effect in relieving the consumer in Canada. I just dwell on the exhibits dealing with blankets a little because when we come to deal with the mills that manufacture blankets we see that they made very heavy profits during the



MR. BRADIE: It equal to 55 per cent ad

valorem duty. That is the effect of the specific duty.

The total duties payable on this importation would

therefore amount to an ad valorem duty of 100 per

cent.

Then in addition to that the Canadian manufacturer

received the benefit of an additional 3 per cent

excise tax, which was the equivalent of an additional

3 per cent ad valorem duty because the duties were

100 per cent of the cost of the goods and the 3 per

cent excise tax was imposed on the duty-paid value,

so that it really equalled an additional 3 per cent

ad valorem.

In April, 1935 -- now we get back to the point

tion where we are now -- on 100 pairs of blankets

costing \$171.48 in the United States an ad valorem

duty of 55 per cent would be \$94.31, or \$271.79.

and a specific duty of 25 cents a pound, amounting to

\$27.50, together with an excise tax of \$9.58, or a

total of \$148.87, being the equivalent of an ad valorem

duty of 87 per cent as against 55 per cent prevailing

before the war -- 1910.

So we see that the Canada-United States trade

agreement, so far as any rate on blankets are con-

cerned, had rather a terrific effect in relieving the

consumer in Canada. I just dwell on the exhibit to

dwell with blankets a little because when we come

to look at the little wool blanket which was

the last time we saw it was very cheap indeed.

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depression years.

This exhibit also shows the same thing in regard to wage increases in the United States and shorter hours of labour, yet the Canadian manufacturer has consistently charged a considerably higher price for the articles than is realized in the United States; for instance, in April 1936, the selling price in the United States was \$171.48, while the selling price in Canada was \$225. That rather indicates something of the penalty which the consumer pays.

MR. KELLOCK: Of course, these were not actual importations, but hypothetical cases.

MR. HOOPER: They were the actual selling prices.

MR. McRUER: How can it be said that these are hypothetical cases?

THE COMMISSIONER: Mr. McRuer has told us earlier in the day how access to the American market was and is prevented.

MR. KELLOCK: But when my friend speaks of the consumer paying these prices --

MR. McRUER: He would have to pay if he imported.

THE COMMISSIONER: It is because he would have to pay so much that he does not import.

MR. McRUER: My friend quite misunderstands what I said. I am stating what the consumer actually paid in Canada.

THE COMMISSIONER: If he imports.

MR. McRUER: No, if he buys in Canada. The



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This exhibit also shows the same thing in re-

gard to wage increases in the United States and a short

hours of labor, yet the Canadian manufacturing has

consistently charged a considerably higher price for

the articles than is realized in the United States;

for instance, in April 1926, the selling price in the

United States was \$11.48, while the selling price

in Canada was \$20.50. That rather indicated something

in the way of value in the United States.

Q. Now, of course, these were not actual

transactions, but hypothetical ones.

A. No, they were the prices of selling

prices.

Q. Now, how can it be said that these are

hypothetical ones?

A. Well, Mr. witness has told us that he

is the only one to the American market was and

prevented.

Q. Now, Mr. witness, but when you tried to get

consumers buying these prices --

A. Well, he would have to pay it he had to

the Canadian market. It is because he would have

to pay so much that he does not import.

Q. Now, Mr. witness, you have just said that

that I am stating what the consumer actually paid

the Canadian market.

Q. Now, Mr. witness, if he imports.

A. Well, he pays in Canada. The

The Canadian price is \$225, and the American selling price is \$171.48. So my friend was entirely wrong.

THE COMMISSIONER: And if he imports he has to pay the duties, and so on.

MR. McRUER: Yes, he would have to pay \$148.43 duty if he imported. That would be added to the \$171.48, and he could not possibly afford to buy at that price

THE COMMISSIONER: Your argument there is that having regard to labour costs and other factors the Canadian manufacturer is taking advantage of the high tariff to enhance unduly the price of his article to the Canadian consumer.

MR. McRUER: Yes. The fact is the Canadian consumer pays about \$54 more than the American consumer pays for the same article, and the American manufacturer has to contend with higher wage costs and shorter hours of labour. Not only that, but that is the manufacturer's price. When you pass it on to the consumer and have the wholesaler's mark-up on it and the retailer's mark-up on it, the burden is multiplied by 50 per cent.

THE COMMISSIONER: When you give the United States price of \$171.48, what price is that?

MR. McRUER: That is the manufacturer's price.

THE COMMISSIONER: They are both manufacturer's prices?

MR. McRUER: Both.

THE COMMISSIONER: Then the same would apply in the United States, wholesaler's and retailer's





profits would have to be added to both prices ?

MR. McRUER: But in the United States it is on a lower mark-up.

THE COMMISSIONER: The starting point is lower?

5 MR. McRUER: The starting point is lower.

There is a difference of \$54.

THE COMMISSIONER: And you say that having regard to manufacturing conditions, that is lower wages and longer hours of labour, the Canadian manufacturer is making an improper use of tariff protection ?

10 MR. McRUER: Yes, or at any rate the Canadian consumer is being seriously penalized.

THE COMMISSIONER: Well, that is the same thing. If he is being penalized it is by the manufacturer.

15 MR. KELLOCK: Of course, my lord, the difference between the American price and the laid-down value in Canada is about \$160, and the difference between the American price and the Canadian price is only \$54. So they are not taking advantage of the spread.

20 MR. McRUER: You would not suggest that they try to take advantage of the spread, because they could not.

25 MR. KELLOCK: I was pointing out the difference between the laid-down price here and the American price.

THE COMMISSIONER: The laid-down American article ?

30 MR. KELLOCK: Yes. It is about \$160 over the American price. The Canadian price is only about \$54



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profits would have to be added to both prices?  
MR. McNEIL: But in the United States it is  
on a lower mark-up.  
THE COMMISSIONER: The starting point is lower.  
MR. McNEIL: The starting point is lower.  
There is a difference of 10%.  
THE COMMISSIONER: And you say that having re-  
gard to manufacturing conditions, that is lower  
wages and longer hours of labour, the Canadian  
manufacturer is making an improper use of tariff pro-  
tection?  
MR. McNEIL: Yes, or at any rate the Canadian  
consumer is being seriously penalized.  
THE COMMISSIONER: Well, that is the same thing  
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try to take advantage of the spread, because they  
could not.  
MR. McNEIL: I was pointing out the difference  
between the laid-down price here and the American  
price.  
THE COMMISSIONER: The laid-down American  
price.  
MR. McNEIL: Yes. It is about \$160 over the  
American price. The Canadian price is only about

over the American price. These are essentially cotton blankets, perhaps just 5 per cent wool.

THE COMMISSIONER: Of course, when your turn comes you can go into this more fully.

MR. McRUER: Turning to page 99 of my brief, we refer to Exhibit 872, showing a comparison of Canadian and American mill spreads. The Canadian mill spread in January 1936, was 7.36 cents per pound higher than the American mill spread, notwithstanding the lower wages paid in Canada. The total mill spread in January 1936 on 100 pairs of blankets amounted to \$168.71, and the total duty and excise under date of February 26, 1936, is \$149.27. In other words, the protection afforded the Canadian manufacturer as against the American manufacturer is 89 per cent of the total cost of manufacture. So that to say the Canadian manufacturer is being protected by a prohibitive tariff is just putting it accurately I think.

THE COMMISSIONER: We will now adjourn.

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-- The Commission adjourned at 5 p.m. to resume to-morrow morning at 10.30 o'clock.

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TABLE

over the American price. These are essentially cotton  
blankets, perhaps just 5 per cent wool.

The Commission: Of course, when you turn  
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MR. BRYDIE: Turning to page 99 of my brief, we  
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protection afforded the Canadian manufacturer as

against the American manufacturer is 89 per cent of  
the total cost of manufacture. So that to say the

Canadian manufacturer is being protected by a prohibi-  
tive tariff is just putting it accurately I think.

The Commission: We will now adjourn.

-- The Commission adjourned at 5 p.m. to recon-  
vene at 10 a.m. tomorrow.

ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S. Whiteley, Secretary,

ONE HUNDRED AND FOURTH DAY

(February 5, 1937)

ARGUMENTRobert Brydie,  
Official Reporter.



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ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S. Whiteley, Secretary,

A p p e a r a n c e s :

J.C. McRuer, K.C. and )

E. Beauregard, K.C. ) Commission Counsel,

R.L. Kellock, K.C.

For Primary Textiles  
Institute.

C.G. Heward, K.C. )

Aime Geoffrion, K.C. )

For Dominion Textile  
Company.

and )

C.T. Ballantyne, )

S.G. Dixon, K.C.

For Courtaulds Limited,

L.A. Forsyth, K.C.

For Canadian Celanese Ltd.  
and Canadian Silk Products  
Limited.

A.S. Bruneau, K.C.

For Canadian Cottons,

Thos. Tremblay, K.C. )

and )

For M.E. Binz Co. Ltd.

J.H. Hebert, )

Francois Lajoie, K.C.

For Wabasso Cotton Co.

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H.L. Kellock, K.C.  
J.G. McArthur, K.C. and  
J. McArthur, K.C.

C.G. Howard, K.C.  
Aime Gosselin, K.C.  
and  
C.T. McManis, K.C.

Thos. Tremblay, K.C.  
and  
J.H. Hebert

Francois LaJoie, K.C.

Ottawa, Ontario,  
Friday, February 5, 1937.

-- The Commission resumed at 10.30 a.m.

ARGUMENT BY MR. McRUER, K.C. (Resumed):

5 When we adjourned last night, my lord, we were dealing with the duties that were payable on cotton blankets, or mixtures of cotton and wool. -- At page 100 of my brief I deal with exhibit 873 which refers to cotton blankets imported from the United States of America  
10 under tariff item 526. Prior to 1930 the only duty payable on these blankets was  $27\frac{1}{2}\%$  ad valorem. In September, 1930, the duties were increased to 35% ad valorem and 30 cents a pound specific duty. The effect of that was that on the articles dealt with in  
15 exhibit 873, that is, 100 pairs of blankets selling at \$110.00 in the United States the increase in the Customs Duty amounted to 310%. I just want to verify that, my lord, and be sure there is no clerical error there. It amazes me that it should be as much. Yes,  
20 that is correct, my lord, according to the exhibit, that there was an increase --

THE COMMISSIONER: 310%.

MR. McRUER: 310%.

25 THE COMMISSIONER: What is the starting point; what is the figure that bore this increase?

MR. McRUER: That is --

THE COMMISSIONER: It was  $27\frac{1}{2}\%$ ?

MR. McRUER: It was  $27\frac{1}{2}\%$ .

30 THE COMMISSIONER: That was increased by how much?



AGREEMENT BY MR. MCKINER, K.C. (Resumed):

When we adjourned last night, my lord, we were dealing with the duties that were payable on cotton blankets or mixtures of cotton and wool. At page 100 of my report I deal with exhibit 875 which refers to cotton blankets imported from the United States of America under tariff item 585. Prior to 1930 the only duty payable on these blankets was 27½% ad valorem. In September, 1930, the duties were increased to 35% ad valorem and 80 cents a pound specific duty. The effect of that was that on the articles dealt with in exhibit 875, that is, 100 pairs of blankets selling at \$110.00 in the United States the increase in the Customs duty amounted to \$10. I just want to verify that, my lord, and be sure there is no clerical error there. It amazes me that it should be as much. That is correct, my lord, according to the exhibit, that there was an increase --

THE COMMISSIONER: \$10.

MR. MCKINER: \$10.

THE COMMISSIONER: What is the starting point; what is the figure that bore this increase?

MR. MCKINER: \$110.

THE COMMISSIONER: Is that right?

MR. MCKINER: Yes, my lord.

THE COMMISSIONER: That was the figure on which the

MR. McRUER: The ad valorem duty was increased to 35% and the specific added of 30 cents a pound, and this being an article that was cheap and heavy the specific duty bore very heavily on it, and that is one criticism that I offer to the specific duties, that is, that on a cheap class of goods -- and we have the same thing occurring again in carpets -- on the cheap class of goods that must form the great mass of goods that the working man and those with lower purchasing power have to buy the specific duties bear down more heavily because the 30 cents a pound is just the same on a coarse heavy blanket that sells at a lower price abroad as it is on a fine piece of goods that costs more to spin, more expensive yarn in it and that sells at a very much higher price abroad. I don't know any example that can drive that underlying principle home more forcibly than this one, and the same thing occurs again when we come to deal with carpets. These sold in the United States at about \$1.10 a pair; they are \$1.10 for the 100 pair lot. Mr. Hooper has just pointed out to me that before these changes in duties there were quite substantial importations of these goods from the United States. For instance, in 1926 the importations, according to the Trade of Canada statistics amounted to \$140,307, in 1927 \$176,516, in 1928 \$286,845, in 1929 \$218,898. In the fiscal year ending the 31st of March, 1931 they amounted to \$99,463. Now, your lordship--

THE COMMISSIONER: What year did you say?

MR. McRUER: That is the 31st of March, 1931. For



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... and the specific added of 50 cents a pound, and  
 specific duty from very heavily on it, and that is one  
 criticism that I offer to the specific duties, that is  
 that on a cheap class of goods -- and we have the same  
 thing occurring again in cereals -- on the other  
 class of goods that must form the great mass of goods  
 that the working man and those with lower purchasing  
 power have to buy the specific duties bear down more  
 on a coarse heavy blanket than on a fine piece of goods that costs  
 more to spin, more expensive yarn in it and that sell  
 at a very much higher price abroad. I don't know  
 any example that can drive that underlying principle  
 home more forcibly than this one, and the same thing  
 occurs again when we come to deal with cereals.  
 These sold in the United States at about \$1.10 a bushel  
 they are \$1.10 for the 100 bushel lot. Mr. Hooper has  
 just pointed out to me that before these changes in  
 duties there were quite substantial importations of  
 these goods from the United States. For instance,  
 in 1928 the importations, according to the Trade of  
 Canada statistics amounted to \$140,307, in 1927  
 \$176,316, in 1926 \$286,245, in 1925 \$216,888. In  
 fiscal year ending the 31st of March, 1931 they were  
 \$114,465. Now, your lordship --  
 THE COMMISSIONER: What year did you say?

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six months of that year they were subject to the lower duty and from September to March to the higher duties. Then, when we come to the full year when they are subject to the higher duties it is \$3,321.

5 THE COMMISSIONER: Dollars?

MR. McRUER: Yes, my lord; in 1933 \$1,309, in 1934 \$735. So that we find that the importations practically disappear altogether. Now, the exhibit shows, 873, that on the 100 pairs of cotton blankets--

10 MR. HEWARD: Excuse me, Mr. McRuér, may I interrupt? Are these importations you show from the United States or all countries?

MR. McRUER: From the United States.

MR. HEWARD: From the United States?

15 MR. McRUER: Yes, because that is what the exhibit deals with.

MR. HEWARD: I just wanted to make sure it didn't mean all importations.

20 MR. McRUER: Oh no, no. We can get that figure too, probably. The total importations for 1926 were \$178,068.

MR. KELLOCK: Is that dollars?

MR. McRUER: Dollars, yes.

25 MR. HEWARD: 176,000?

MR. McRUER: \$178,068; your lordship will notice they practically all came from the United States in that year. In 1927 \$254,154 out of which \$176,516 came from the United States. In 1928 \$420,612 out of which \$286,845 came from the United States. In 1929 \$351,897 of which \$218,898 came from the United States.

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The question of the tariff on the importation of the  
 duty and from September to March to the highest duties,  
 subject to the higher duties is 15 per cent.  
 The question is: Dollars?  
 So that we find that the investigation was  
 tically disappear altogether. Now, the exhibit  
 shows, 878, that on the 100 pairs of cotton blankets  
 Mr. NEWBOLD: Excuse me, Mr. Newman, may I interpose?  
 are these importations you show from the United  
 States or all countries?  
 Mr. NEWMAN: From the United States.  
 Mr. NEWBOLD: From the United States?  
 Mr. NEWMAN: Yes, because that is what the exhibit  
 shows.  
 Mr. NEWBOLD: I just wanted to make sure it didn't  
 cover all importations.  
 Mr. NEWMAN: Oh no, no. We can get that figure  
 from the same investigation for 1892.  
 were \$178,000.  
 Mr. KILPATRICK: The same figure?  
 Mr. NEWMAN: Yes.  
 Mr. NEWBOLD: 178,000?  
 Mr. NEWMAN: \$178,000; your lordship will notice it  
 precisely all came from the United States in that  
 year. In 1892, the same figure, \$178,000, was  
 from the United States. In 1893 \$240,000 out of which  
 \$144 came from the United States. In 1894  
 \$144,000 of which \$144,000 came from the United States.

In 1930 \$341,764 of which \$178,378 came from the United States. Now, an examination of the table shows that the next highest exporter to Canada that year was Poland with \$9,071 worth so that the rest was distributed very generally among other countries, and the United States by all odds was the predominant exporter to Canada. Now, when we go to 1931 the total imports were \$232,422, and that was, of course, the year when they were part of the year high tariff and partly low, but when we come to 1932 --

MR. KELLOCK: Would you give us the distribution in 1931?

MR. McRUER: Yes, United States \$167,733 of the \$232,000, and the next highest -- I beg your pardon, I was looking at the wrong figure, \$99,463 from the United States that year.

MR. HEWARD: Instead of \$167,000?

MR. McRUER: Instead of \$167,000; I gave you the figure on units instead of dollars.

MR. HEWARD: By the way, what exhibit is this, Mr. McRuer?

MR. McRUER: It is Trade of Canada. Imports from the United Kingdom that year were \$24,823. Now, when we come to 1932 which is the first full year of the high tariffs the total imports were \$5,520 of which \$3,321 were from the United States, and \$856 from the United Kingdom, so that it is quite clear when we are dealing with an example of a blanket made in the United States we are dealing with the market out of which the consumers were excluded from purchasing, and



IN 1920, THE VALUE OF EXPORTS TO CANADA WAS \$1,000,000.

United States. Now, an examination of the table shows that the value of exports to Canada in 1920 was \$1,000,000.

Poland with \$9,000,000 worth so that the rest was distributed very generally among other countries, and the United States by all odds was the predominant exporter to Canada. Now, when we go to 1921 the total

imports were \$232,432, and that was, of course, the year when they were part of the year high tariff and heavily low, but when we come to 1922 --

MR. KILLICK: Would you give us the distribution in 1921?

MR. MORSE: Yes, United States \$167,725 of the \$232,000, and the next highest -- I beg your pardon, I was looking at the wrong figure, \$99,463 from the United States that year.

MR. MORSE: Instead of \$167,000?

MR. MORSE: Instead of \$167,000; I gave you the 11

on units instead of dollars.

MR. MORSE: By the way, what exhibit is this, Mr.

EXHIBIT 17

MR. MORSE: It is Trade of Canada. Imports from the United Kingdom that year were \$24,825. Now, when we come to 1922 which is the first full year of the

the value of exports to Canada was \$1,000,000.

\$2,521 were from the United States, and \$256 from the United Kingdom. Now, when we come to 1923 which is the first full year of the

it was not the United Kingdom market or any other market. Then, when we come to 1933 the total imports into Canada were \$1,638 of which \$1,309 came from the United States and the balance of \$329 from the United Kingdom. The United Kingdom was the only other importer, that \$329. In 1934 the total imports were \$1480 of which \$735 was from the United States and \$704 from the United Kingdom and \$13 from St. Pierre Miquelon.

MR. KEKLOCK: What is the description of those imports in Trade of Canada?

MR. McRUER: Blankets of cotton, not to include automobile or steamer rugs or similar articles. It is the article dealt with in the exhibit that we are referring to. Then, in 1935 the total imports were \$3,754 of which \$2,016 came from the United States and \$1604 from the United Kingdom, and St. Pierre Miquelon seems to have been excluded from the market that year. So that when we are dealing with this exhibit we are dealing with a concrete case of a prohibitive tariff put on an article that goes into the homes of those who have reduced purchasing power, and gives to a very few manufacturers of these articles in Canada a complete monopoly of the Canadian market.

Now, the result; on 100 pairs of these blankets selling in the United States in January, 1931 at \$85 the ad valorem duty amounted to \$29.75 while the specific duty amounted to \$82.50, so that the specific duty alone was 97% on an ad valorem basis and yet apparently some came in from the United States and paid



it was not the United Kingdom market or any other market. Then, when we come to 1933 the total imports into Canada were \$1,638 of which \$1,509 came from the United States and the balance of \$129 from the United Kingdom. The United Kingdom was the only other exporter, that \$129. In 1934 the total imports were \$1,430 of which \$785 was from the United States and \$704 from the United Kingdom and \$41 from St. Pierre and Miquelon.

MR. MILLER: What is the description of these imports in Trade of Canada?

MR. MILLER: Blankets of cotton, not to include automobile or steamer ways or similar articles. If the article dealt with in the exhibit that we are referring to. Then, in 1933 the total imports were \$3,754 of which \$3,016 came from the United States and \$738 from the United Kingdom, and St. Pierre and Miquelon seems to have been excluded from the market that year. So that when we are dealing with this exhibit we are dealing with a concrete case of a prohibitive tariff put on an article that goes into homes of those who have reduced purchasing power, and gives to a very few manufacturers of these articles Canada a complete monopoly of the Canadian market.

Now, the result; on 100 pairs of these blankets selling in the United States in January, 1931 at \$55 the ad valorem duty amounted to \$29.75 while the specific duty amounted to \$22.50, so that the small difference of \$7.25 was the result of the difference in the two duties.

Now, the result; on 100 pairs of these blankets selling in the United States in January, 1931 at \$55 the ad valorem duty amounted to \$29.75 while the specific duty amounted to \$22.50, so that the small difference of \$7.25 was the result of the difference in the two duties.

the duty, so that the price here must have been such that even at that they imported some of them, anyway, into the country.

THE COMMISSIONER: You haven't our prices?

5 MR. McRUER: Yes, I have our prices. I will deal with them in a moment. We have them in the exhibit. In 1933 on 100 pairs of blankets selling in the United States at \$70 the ad valorem duty amounted to \$29.45 and the specific duty amounted to \$82.50, or the  
10 specific duty alone was 118%.

THE COMMISSIONER: That seems to be more than 310%, as in the former case.

MR. McRUER: It was a 310% increase at the beginning but as the price went down in the United States then  
15 the specific duty went up when calculated on an ad valorem basis so that the total duty at this time in 1933 amounted to 137.45 per cent when calculated on an ad valorem basis, and, of course, in addition to that there was the 3% excise tax which would be an  
20 additional protection of about 7% on an ad valorem basis. The excise taxes amounted to \$5.88 on that illustration where the cost in the United States was \$70.00. The excise tax was \$5.88, \$3.36 of which was  
25 levied on duties payable and \$2.52 levied on the selling price of the goods so that the excise tax that was imposed was greater on the duties payable than it was on the selling price of the goods, so that it was a tax on the privilege of paying duties. In  
30 addition to all this the Canadian manufacturer had



the duty, so that the price here must have been such  
that even at that they imported some of them, anyway,  
into the country.

THE COMMISSIONER: You haven't our prices?  
MR. MORRIS: Yes, I have our prices. I will deal  
with them in a moment. We have them in the exhibit.  
In 1903 on 100 pairs of blankets selling in the United  
States at \$70 the ad valorem duty amounted to \$29.45  
and the specific duty amounted to \$32.50, or the  
specific duty alone was 118%.

THE COMMISSIONER: That seems to be more than 210%  
as in the former case.

MR. MORRIS: It was a 210% increase at the beginning  
but as the value went up in the United States  
the specific duty went up when calculated on an ad  
valorem basis so that the total duty at this time in  
1903 amounted to 137.45 per cent when calculated on  
an ad valorem basis, and, of course, in addition to  
that there was the 3% excise tax which would be an  
additional protection of about 3% on an ad valorem  
basis. The excise taxes amounted to \$5.88 on that  
illustration where the cost in the United States was  
\$20.00. The excise tax was \$5.88, \$2.50 of which was  
levied on duties payable and \$3.38 levied on the  
selling price of the goods so that the excise tax  
that was imposed was greater on the duties payable  
than it was on the selling price of the goods, so that  
it was a tax on the privilege of paying duties. In  
addition to all this the Canadian manufacturer had

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at the time the benefit of the protection afforded by the currency exchange of 20.19 per cent. When the importer went to buy in the American market in addition to the customs duties he paid he had to pay 20.19 per cent premium on American funds.

At the present time, since the Canada-United States Trade Agreement, effective since the 1st of January, 1936, the tariff of duties is 30% ad valorem and 25 cents a pound specific duty. On an importation costing in the United States \$107 -- this is since the change on the 1st of January, 1936 -- the following duties are payable, \$32.20 ad valorem duty, \$68.75 specific duty and excise tax of \$6.25 or a total of \$107.20 duties on the shipment costing in the United States \$107.00 or an even 100% ad valorem as against 27½% prevailing prior to September, 1930. So that

the record of importations shows that prior to the increases the competition came from the United States, that since, or during the last five years there has been no competition from the United Kingdom, there has been no competition from the United States, and when I say "no competition" I don't think I am exaggerating it. \$3,000 in the Canadian market cannot be argued to be competition. The trade enjoys on this item a tariff protection of 100%.

THE COMMISSIONER: Can you tell me anything about the importations during the last calendar year? You see, the lower duties have been in force now a whole year.

MR. HOOPER: That would not make any difference, my lord, because the duties are still so high they could



1937

at the time the benefit of the protection afforded  
the currency exchange of 22.12 per cent. When the  
importer went to buy in the American market in 1936  
to the customs duties he said he had to pay 22.12  
cent premium on American funds.  
At the present time, since the Canada-United States  
Trade Agreement, effective since the 1st of January  
1937, the tariff of duties is 50% ad valorem and 20%  
ad valorem specific duty. On an importation of  
say in the United States \$107.00 -- this is about the  
change on the 1st of January, 1936 -- the following  
duties are payable, \$53.50 ad valorem duty, \$21.40  
specific duty and excise tax of \$2.50 or a total of  
\$107.40 duties on the shipment coming in the United  
States \$107.00 or an even 100% ad valorem as against  
27% prevailing prior to September, 1936. So that  
the record of importations shows that prior to  
September the competition came from the United States  
that time, or during the last five years there has  
been no competition from the United Kingdom, France  
been no competition from the United States, and when  
I say "no competition" I don't think I am exaggerating.  
\$25,000 in the Canadian market cannot be argued  
to be competition. The trade enjoys on this side  
tariff protection of 100%.

THE QUESTION: Can you tell me anything about  
importations during the last five years? Has  
the lower duties have been in force now a whole year  
yet? Has the tariff not made any difference, or  
has the tariff are still so high they could

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not come in.

THE COMMISSIONER: You don't know; you haven't got any figures?

MR. McRUER: We will ask at the department for the figures so we may have them.

THE COMMISSIONER: That is, it would seem to be hardly worth while having a treaty and reducing the duties unless you reduce them low enough to produce trade.

MR. McRUER: We reduced them from 118% to 100%.

THE COMMISSIONER: If that is not low enough to produce trade what is the use of reducing them at all?

MR. McRUER: It is a paper reduction; that is all. It is a bookkeeping entry.

THE COMMISSIONER: Yes, but this is the result of a treaty. I would like to know what is the effect on the importations.

MR. HOOPER: I will get that, my lord.

MR. McRUER: But from the consumers' point of view I submit that on his behalf it can be said that he is really at the mercy of the Canadian manufacturer of these blankets. I don't know that there can be any attempt made to justify a duty on any basis except as a prohibitive duty. Some witnesses that appeared before the Commission did attempt to justify prohibitive duties. Mr. Watson, for instance, contended that all competition from abroad should be shut out of the market because he put it on the ground that if you buy a dollar's worth abroad you have taken away a dollar's





worth of business from the Canadian manufacturer and, therefore, a job from the Canadian workman. That is an economic principle that, I submit, cannot underlie any sound basis of fixing customs duties, but it seems to be the one that would apply to this.

Now, your lordship asked about the Canadian selling prices of these blankets. I thought that it was in the exhibit.

THE COMMISSIONER: Maybe it is.

MR. McRUER: No, I don't find it here. Mr. Hooper has stepped out for the moment.

SECRETARY WHITELEY: It is in 874, isn't it?

MR. McRUER: I am not sure that is the same blanket. It does not look like the same one to me. You see, the Canadian blanket is 3.32 pounds per pair and the American is 2.75 pounds per pair. There is a slight difference. It may be a considerable difference in the weight, but in comparing the price of these blankets they are cotton blankets, at any rate, so whether it is the one dealt with in the exhibit or not these would be subject to the same customs tariff. The Canadian selling price per pound in March, 1930 was 54.22¢, the American 40.00¢. On the 26th of September, 1930, the Canadian was 51.20¢ and the American 30.91¢. On the 12th of April, 1932 the Canadian was 48.19¢ and the American 25.45¢ so that the Canadian, on that date, is almost twice as much as the American selling price, and the Canadian selling price was maintained at the same price right through to the 12th of April, 1933 at 48.19¢ and the American at the same





price 25.45¢. Then, on the 9th of February, 1934 the Canadian selling price was 52.71¢ and the American selling price 43.64¢. Now, that would be at a time when the N.R.A. was in effect in the United States, and their workmen were working on shorter hours of labour and higher wage rates so that we see there a very clear example of the difference between what the Canadian manufacturer was charging and the American manufacturer was charging. Then, in March, 1935 the selling price in Canada was 52.71¢ and in the United States 40.00¢, and then we come down to 1936, January, 1936, after the provisions of the treaty came into effect and the Canadian selling price was 49.70¢ and the American selling price 37.09¢. So that the Canadian selling price was about 33% above the American selling price after the change in the treaty.

MR. HEWARD: These figures are in exhibit what?

MR. McRUER: Exhibit 874, and the American article throughout was a heavier article than the Canadian. I summarize just what I have said in respect to that exhibit on page 101.

Now, Mr. Hooper had something here I wanted to draw your lordship's attention to in respect to the woollen blankets before I leave the subject of blankets, on the question of importations, so that we may have it complete

THE COMMISSIONER: Are the rates of duty the same on woollen as on cotton blankets?

MR. McRUER: They are at page 97.

THE COMMISSIONER: Blankets wholly of wool, blankets



price \$5.45¢. Then, on the 9th of February, 1934, the Canadian selling price was \$5.71¢ and the American selling price \$5.84¢. Now, that would be at a time when the U.S.A. was in effect in the United States, and their workmen were working on shorter hours of labor and higher wage rates so that we see there is very clear example of the difference between what the Canadian manufacturer was charging and the American manufacturer was charging. Then, in March, 1934, the selling price in Canada was \$5.71¢ and in the United States \$6.00¢, and then we come down to 1935, January, 1935, after the provisions of the treaty came into effect and the Canadian selling price was \$5.70¢ and the American selling price \$5.00¢. So that the Canadian selling price was about 33¢ above the American selling price after the change in the treaty.

MR. LEWIS: These figures are in Exhibit what?

MR. ROBERTS: Exhibit 874, and the American article throughout was a heavier article than the Canadian. I summarize just what I have said in respect to that.

Now, Mr. Hooper had something here I wanted to draw your lordship's attention to in respect to the wool blankets before I leave the subject of blankets, on question of importations, so that we may have it on the record: Are the rates of duty the same on woolen as on cotton blankets?

MR. LEWIS: They are at page 97.

MR. ROBERTS: Blankets wholly of wool, 100%

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wholly of cotton and then -- yes, I remember we had all that yesterday.

5 MR. McRUER: They were merged. They are the same now, my lord. They were different prior to September 17, 1930. On September 17, 1930 they were brought together in one item. Woollen blankets; importations of woollen blankets, my lord, for the year 1926, \$601,000, \$548,000 of which was from the United Kingdom. 1927, \$631,000, \$578,000 of which was from the United Kingdom. 1928, \$800,000, \$750,000 of which was from the United Kingdom. 1929, \$925,000, \$827,000 of which was from the United Kingdom. 1930, \$1,015,000, \$816,000 of which was from the United Kingdom. 1931, \$729,000, \$591,000 of which was from the United Kingdom. 1932, \$157,000, \$149,000 of which was from the United Kingdom. 15 Your lordship will notice how they dropped off between 1931 and 1932. The importations dropped from \$591,000 to \$149,000 from the United Kingdom. In 1933 the total importations were \$81,000, \$78,000 of which was from the United Kingdom. In 1934 the total importations were \$76,000, \$74,000 of which ~~was~~ from the United Kingdom. In 1935 the total importations were \$188,000, \$185,000 of which was from the United Kingdom, and it is rather interesting just in that regard to know, 20 my lord -- now, is this \$185,000 the invoice value or the duty paid value?

MR. HOOPER: It is the value for duty.

MR. McRUER: On the \$185,000 imported in 1935 from the United Kingdom, on those goods they paid \$73,000 in duty so that your lordship will see the burden of 30



...all that ...  
...they were ...  
...now, my lord. They were different prior to September ...  
...On September 17, 1980 they were brought ...  
...together in one item. Woolen blankets; important ...  
...of woolen blankets, of which, for the year 1980, ...  
...1987, \$281,000, \$278,000 of which was from the United ...  
...Kingdom. 1988, \$300,000, \$250,000 of which was from ...  
...United Kingdom. 1989, \$325,000, \$287,000 of which was ...  
...from the United Kingdom. 1990, \$342,000, \$295,000 ...  
...of which was from the United Kingdom. 1991, \$360,000 ...  
...\$291,000 of which was from the United Kingdom. 1992 ...  
...\$387,000, \$340,000 of which was from the United Kingdom ...  
...from the United Kingdom. 1993, \$405,000, \$350,000 of which ...  
...1993 and 1992. The importations dropped from ...  
...\$401,000 to \$349,000 from the United Kingdom. In 1994 ...  
...the total importations were \$41,000, \$38,000 of which ...  
...was from the United Kingdom. In 1995 the total importations ...  
...were \$48,000, \$44,000 of which was from the United Kingdom ...  
...In 1996 the total importations were ...  
...\$100,000, \$95,000 of which was from the United Kingdom ...  
...and it is rather interesting that in that period ...  
...my lord -- now, is this \$185,000 the invoice value ...  
...or the duty paid value?  
...Mr. MOORE: It is the value for duty.  
...Mr. MOORE: On the duty, but interest is paid ...  
...the United Kingdom, on those goods they paid \$75,000 ...  
...is only so that your lordship will see the burden ...

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duty on the consumer of those goods that were imported.

MR. KELLOCK: That \$73,000 is included in the \$185,000?

MR. McRURER: No, \$185,000 is the value for duty  
and \$73,000 is the duty.

(page 14212 follows)

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That was with the reduction in duty that had been put on in 1932 when the Empire Trade Agreement was negotiated. Mr. Hooper has just secured from the department the figures in regard to the imports for the nine months ended December 31, 1936.

THE COMMISSIONER: From the United States ?

MR. McRUER: From the United States, on cotton blankets. This deals with the last exhibit. The total imports were \$2,249, of which \$1,109 came from the United States. That is for the nine months ended December 31, 1936.

THE COMMISSIONER: The new rate of duty began when ?

MR. McRUER: The first of January.

THE COMMISSIONER: You have not the figures for the first three months ?

MR. McRUER: No, I presume that is on account of the statistical year ending March 31st. I suppose we can get the figures for the other three months. That is all I have to say on the subject of blankets, my lord.

Now we come to the subject of carpets and floor rugs dealt with on page 101 of my brief. From 1907 to 1930 these were subject to duty under tariff item No. 572 at rates of 25 per cent, 30 per cent and 35 per cent respectively. When I come to deal with the financial history of these companies, I think that is important, my lord, we will see how the carpet companies got along for twenty-three years in



1934

That was with the retention in duty that had been  
put on in 1932 when the Empire Trade Agreement was  
negotiated. Mr. Cooper has just returned from the  
department the figures in regard to the imports  
the nine months ended December 31, 1934.

THE COMMISSIONER: From the United States?  
MR. COOPER: From the United States, on October  
eleven. This deals with the last exhibit. The  
total imports were \$8,345, of which \$1,145 came  
from the United States. That is for the nine months  
ended December 31, 1934.

THE COMMISSIONER: The new rate of duty began  
on the first of January.

MR. COOPER: You have not the figures for  
the first three months?

MR. COOPER: No, I presume that is on account  
of the statistical year ending March 31st. I suppose  
we can get the figures for the other three months.  
That is all I have to say on the subject of blankets  
my lord.

Now we come to the subject of wool and 1300  
pages dealt with on page 101 of my brief. From 1907  
to 1930 these were subject to duty under tariff item  
No. 572 at rates of 25 per cent, 30 per cent and

35 per cent. When I come to deal with  
the financial history of these companies, I think  
it is important, my lord, we will see how the

financial companies are doing for 1934-1935.

Canada under these rates of duty.

Then we come to the year 1930, when the rates were increased to 30 per cent or 35 per cent and 40 per cent respectively, and 10 cents, 15 cents and 20 cents per square foot specific duty. Now that is a specific duty per square foot on carpet irrespective of the price or quality of the carpet. For instance, take as an example, very heavy and expensive carpet, and we will give an example of that; it just pays the same rate of specific duty as the poorest covering that a man might seek to put on the floor of his home.

In 1932 the British preferential rate was reduced from 10 cents per square foot to 5 cents per square foot, but the rates under the other tariffs remained the same. In 1935 a change was made and the oriental and imitation-oriental rugs and carpets, not otherwise provided for, if valued at less than \$2 per square yard, came in at an ad valorem rate of 30 per cent, 35 and 40 per cent, the same ad valorem rates as before, but under the British preference the specific duty is 3 cents per square foot. So that there is an allowance under the British preference of 2 cents per square foot in the specific duty in favour of the lower priced carpet, but no allowance under the intermediate and general tariffs, and of course one would expect the lower priced carpets to come in under the intermediate and general tariffs.



Canada under these terms of duty.

Then we come to the year 1910, when the rates were increased to 30 per cent on 34 per cent and in the same year, 1910, the rates were 20 cents per square foot specific duty. Now that is a specific duty per square foot on carpet irrespective of the price or quality of the carpet. For instance, take as an example, very heavy and expensive carpet, and we will give an example of that: it just pays the same rate of specific duty as the poorest covering that a man might seek to put on the floor of his house.

In 1922 the British preferential rate was reduced from 10 cents per square foot to 5 cents per square foot, but the rates under the other tariffs remained the same. In 1925 a change was made and the oriental and imitation-oriental rugs and carpets, not otherwise provided for, it valued at less than 25 per square yard, and in at an ad valorem rate of 30 per cent, 35 and 40 per cent, the same ad valorem rates as before, but under the British preference the specific duty is 3 cents per square foot. So that there is an allowance under the British preference of 3 cents per square foot in the specific duty in favour of the lower-priced carpet, but no allowance under the intermediate and general tariffs, and of course one would expect that there would be some in cases of

Just as an example of how this might work out -- it is an extreme example -- on a rug made of very, very flimsy material that is not likely to compete with any other fabric that is made in Canada because its special construction is so cheap and so flimsy, being merely a floor covering from Japan, the rate of duty on that -- one of the customs officials told me that he had an actual invoice that worked out at 2,600 per cent. That is a very extreme case, but it just illustrates how these specific duties can work. What happened was that this particular lot had been imported and had got by under some other classification than carpets and rugs. Then they came back to assess them duty on it, but it was going to work out to so many more times than the value of the article that they finally concluded: Oh well, it has been imported now, and we are not going to go back and re-classify it. But there was the invoice with the classification put on.

MR. KELLOCK: It is going to be a little difficult to compare that anyway.

MR. McRUER: Yes, I am only using it as a hypothetical case of how it can work out. If I merely suggested a hypothetical case, without there being actually in existence an invoice of the character, one would hardly believe it possible. It just means this, that this very cheap fabric that is spread over the floor, and because it is spread over the floor, comes under the classification of a rug or carpet,





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becomes subject to 15 cents per square foot specific duty.

5 The carpet industry in Canada carried on for twenty-three years without a change in the customs tariff, and the effect of the increase in duties is shown by Exhibit 875. The increase in 1930 amounted to 171 per cent on the item dealt with in that exhibit.. The specific duty when applied amounted to more than the ad valorem duty. The 10 ad valorem duty on a one thousand-yard, 36" tapestry piece dealt with in Exhibit 875 amounted to \$224.48, and the specific duty to \$270. I am dealing here wit a piece imported under the British pre- 15 ferential tariff, and therefore it is not under the higher scale of specific duty. If it were, it would be very much more. When the price decreased in England to \$730 as against \$831 in September 1930, the specific duty was considerably more than 20 the ad valorem duty, the ad valorem being \$197.10 as against a specific duty of \$270. The effect of the 3 per cent excise tax, again, was that the excise tax amounted to \$35.91, \$14.01 of which was payable on the customs duties. I just point out an error 25 there on page 102; in the fourth line from the bottom "is payable" should be "was payable". A change was made in respect to the excise tax on goods coming in under the British preference.

30 THE COMMISSIONER: When was the change? You are talking of April 1932 and April 1934.



becomes subject to 15 cents per square foot specific  
duty.

The carpet industry in Canada carried on for  
twenty-three years without a change in the customs  
tariff, and the effect of the increase in duties  
is shown by Exhibit 875. The increase in 1930  
amounted to 171 per cent on the item dealt with in  
that exhibit. The specific duty when applied  
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in England to \$730 as against \$881 in September  
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the ad valorem duty, the ad valorem being \$197.10  
as against a specific duty of \$270. The effect of  
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tax amounted to \$35.91, \$14.01 of which was payable  
on the customs duties. I just point out an error  
there on page 102; in the fourth line from the bottom  
"is payable" should be "was payable". A change was  
made in respect to the excise tax on goods coming

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MR. McRUER: In April 1934 it was reduced to 1½ per cent, and then on May 23, 1935, it was abolished so far as importations under the British preference were concerned.

5 THE COMMISSIONER: What was abolished ?

MR. McRUER: The excise tax.

THE COMMISSIONER: So that the situation to-day, then, is the same as it has been since that date in 1935, is it not ?

10 MR. McRUER: That is correct. Then at the foot of the page I compare the situation to-day with the situation prior to 1930, as follows:

"On an importation costing in England \$689.44, \$267.15 is payable in duty. If  
15 the tariff of customs duties that prevailed from 1907 to 1930 were in effect to-day, the customs duty on such goods imported into Canada from Great Britain would be \$155.12."  
So that the margin of protection on this importation  
20 is \$267.15 as against \$155.12, or \$112 increase over \$155.12.

THE COMMISSIONER: Do you deal here with the selling price of similar articles in Canada ?

MR. McRUER: We have not got that.  
25

THE COMMISSIONER: You were showing last night, for instance, the advantage taken of the tariff.

MR. McRUER: Yes, my lord.

THE COMMISSIONER: You have not followed that  
30 up in this case.

MR. McRUER: We have not got comparative articles



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Mr. McNamee: In April 1954 it was referred to

no for an investigation under the British provisions

were concerned.

The Commission: It has been stated that date in

Mr. McNamee: The date is

The Commission: So that the situation to-day

is the same as it has been since that date in

1953, is it not?

Mr. McNamee: That is correct. Then at the foot

of the page I compare the situation to-day with the

situation prior to 1950, as follows:

"On an investigation carried in England

\$589.44, \$587.12 is payable in duty. It

the tariff of customs duties that prevailed

from 1907 to 1930 were in effect to-day, the

customs duty on such goods imported into

Canada from Great Britain would be \$150.12."

that the margin of protection on this investigation

\$587.12 is against \$150.12, or \$437.00 increase over

Mr. McNamee: Do you need have with the

selling price of similar articles in Canada?

Mr. McNamee: We have not got that.

in the case, the advantage taken of the tariff.

Mr. McNamee: Yes, my lord.

Mr. McNamee: The duty on British goods

is the same.

Mr. McNamee: The duty on British goods

in this case.

THE COMMISSIONER: We have not got them in Canada, you mean ?

MR. HOOPER: We have them, but the figures desired from the Toronto Carpet Company were not complete, and are not complete yet. I have been unable to do the duty that was assigned to me in that respect.

THE COMMISSIONER: When were they asked for ?

MR. HOOPER: About May of last year. Again they were asked for costs in November, and I again asked for their costs in December when I was down in Toronto.

THE COMMISSIONER: What did they say to you ?

MR. HOOPER: They promised to send them on.

THE COMMISSIONER: What about their selling price ?

MR. HOOPER: Without knowing what grade of yarn goes into the carpet it would not be possible to check up with the English goods.

THE COMMISSIONER: I will speak to you about that, Mr. McRuer.

MR. McRUER: Yes, my lord.

THE COMMISSIONER: Because it is important that we should know the same price when we are dealing with tariffs.

MR. McRUER: Yes, very important, and it is equally important, as Mr. Hooper says, that we should know we are dealing with the same kind of article.

THE COMMISSIONER: You told me something



in the morning.

THE COMMISSIONER: We have not yet been in

contact with the Japanese.

MR. HOBBS: We have them, but the figures

obtained from the Japanese Contact Company were not

quite, and are not complete yet. I have been un-

able to do the duty that was assigned to me in that

respect.

THE COMMISSIONER: When were they asked for?

MR. HOBBS: About day of last year. Again

they were asked for coats in November, and I am in

contact with their coats in December when I was down

in the area.

THE COMMISSIONER: And did they say to you?

MR. HOBBS: They promised to send them on.

THE COMMISSIONER: That about their selling

price?

MR. HOBBS: Without knowing what price they

put into the market it would not be possible to

check up with the British goods.

THE COMMISSIONER: I will speak to you about

that, Mr. Hobbs.

MR. HOBBS: Yes, my lord.

THE COMMISSIONER: I am sure it is important

that you should be able to do this work for me.

THE COMMISSIONER: I am sure it is

very important, and it is

very important, as Mr. Hobbs says, that we should

have a good working relationship with the Japanese.

THE COMMISSIONER: You will be able to

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yesterday with respect to broad silk manufactures, for instance, and we should know if there are any other such cases.

5       MR. McRULER: Mr. Hooper has been doing the best he can with these people to try to get any evidence which would enable us to give a certificate of good character to them.

10       THE COMMISSIONER: No matter what kind of a certificate is given we should have the evidence.

15       MR. McRULER: Quite right. Turning to my brief I make some other comments in respect to some of the methods that have been taken to raise the price of carpets in Canada. The type of carpet dealt with in Exhibit 875 sold in Great Britain in 1936 for 69 cents a square yard. So it is the cheaper class of carpet.

20       When we come to Exhibit 876 -- I am referring to page 103 of my brief -- we deal with a more expensive type of carpet. This is carpet costing in Great Britain \$3.61 per square yard in 1930, and \$3.22 in 1936. The increases in duty in 1930 amounted to 56½ per cent. Your lordship will see that the increase in duty on this particular type of carpet was 25 only 56½ per cent, but on the poor man's carpet the increase was 171 per cent, so that bears out the criticism that I make of the effect of the specific duties, and I think it is important, having regard to the limitation of the purchasing power of the masses of 30 the community, that that should be considered.



yesterday with respect to broad silk manufactures,  
for instance, and we should know if there are any  
other such cases.

MR. McHUGH: Mr. Hooper has been doing the  
best he can with these people to try to get any evi-  
dence which would enable us to give a certificate of  
good character to them.

THE COMMISSIONER: No matter what kind of a cer-  
tificate is given we should have the evidence.

MR. McHUGH: Quite right. Turning to my price  
I make some other comments in respect to some of the  
methods that have been taken to raise the price of  
carpets in Canada. The type of carpet dealt with  
in Exhibit 875 sold in Great Britain in 1936 for  
99 cents a square yard. So it is the cheaper class  
of carpet.

When we come to Exhibit 876 -- I am referring  
to page 100 of my brief -- we deal with a more ex-  
pensive type of carpet. This is carpet costing in  
Great Britain \$3.61 per square yard in 1930, and \$4.25  
in 1936. The increase in duty in 1930 amounted to  
50 per cent. Your lordship will see that the in-  
crease in duty on this particular type of carpet was  
only 50 per cent, but on the poor man's carpet the

increase was 100 per cent. I think that I made of the effect of the specific duty  
and I think it is important, having regard to the  
effect of the purchasing power of the masses of  
the community, that we should know the effect of the

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The ad valorem duty on the more expensive article amounted to \$1,001. The price of the article was \$3,710 for a one thousand-yard piece. "I quote from page 103 of my brief:

"In September 1930 the total ad valorem duty was 34 per cent. At the present time the rate on this fabric, imported from Great Britain, would be 30 per cent and 5 cents per square foot. On the fabric selling at the same price to-day, that is \$3,710.82, the total payable on an ad valorem basis would be at the rate of 31 per cent." ~~When I say~~  
When I say "the total payable", that is the specific and the ad valorem, 31 per cent.

MR. KELLOCK: You have not taken off the 10 per cent.

MR. HOOPER: Yes, to get 31 per cent you would have to.

MR. McRUER: Yes. In the remainder of the page, my lord, I comment on what I have already dealt with.

THE COMMISSIONER: Yes, I have read it.

MR. McRUER: There is a typographical error in the seventh line from the bottom of page 104 of my brief, where it reads "ad valorem duties are collected on an ad valorem basis." It should read "when the specific and ad valorem duties are reckoned on an ad valorem basis." It should be "reckoned" or "calculated" instead of "collected".

-- The Commission adjourned for a short recess.





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-- On resuming:

MR. McRULER: At page 105 of my brief, my lord,  
we deal with the rates of customs duties on knitted  
fabrics in piece goods. Again from 1907 to 1922  
substantial but probably not exorbitant customs  
duties applied,  $22\frac{1}{2}$  per cent, 30 per cent and 35 per  
cent in 1907, and in 1922 the British Preference  
rate was reduced from  $22\frac{1}{2}$  to 20 per cent. In 1928  
the rates were revised and alterations made according  
to the fabric. For example, cotton or linen knitted  
fabric came in in 1928 at 20 per cent,  $27\frac{1}{2}$  per cent  
and 30 per cent. There was a reduction of  $2\frac{1}{2}$  per  
cent in the Intermediate schedule.

Then woollen or worsted goods, five ounces per  
square yard or less, came in at  $22\frac{1}{2}$ , 30 and 35 per  
cent. There was an increase there of  $2\frac{1}{2}$  per cent  
over the then prevailing rate under the British  
Preference, but that simply restored the rate to what  
it had been before 1922. Then woollen or worsted  
goods, over five ounces per square yard, came in at  
 $27\frac{1}{2}$  per cent, 35 per cent and 35 per cent, which was  
an increase in both the Intermediate and British  
Preferential tariffs. Real silk in 1928 had rates  
respectively of 20 per cent,  $32\frac{1}{2}$  and 35 per cent.  
The British Preference remained the same but there  
was an increase of  $2\frac{1}{2}$  per cent in the Intermediate.

Then we come to September 17, 1930. Again,  
with respect to several items that had been separated  
for the purpose of making the duties more equitable,



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MR. BRIDGE: At page 102 of my article, you find we deal with the rates of customs duties on knitted fabrics in this country. In 1907 the rates were substantial but probably not exorbitant customs duties applied, 25 per cent, 30 per cent and 35 per cent in 1907, and in 1922 the British Preference rate was reduced from 25 to 20 per cent. In 1923 the rates were revised and alterations made according to the fabric. For example, cotton or linen knitted fabrics came in in 1923 at 20 per cent, 25 per cent and 30 per cent. There was a reduction of 2 1/2 per cent in the Intermediate schedule. Then woolen or worsted goods, five ounces per square yard or less, came in at 25, 30 and 35 per cent. There was an increase there of 2 1/2 per cent over the then prevailing rate under the British Preference, but that simply restored the rate to what it had been before 1922. Then woolen or worsted goods, over five ounces per square yard, came in at 25 per cent, 30 per cent and 35 per cent, which was an increase in both the Intermediate and British Preferential tariffs. Real silk in 1923 had rates respectively of 20 per cent, 25 and 35 per cent. The British Preference remained the same but there was an increase of 2 1/2 per cent in the Intermediate.

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that is, that a high rate of duty should not prevail where only a low rate of duty was required, a consolidation was put into effect and the rates were made 25 per cent British Preferential, 25 per cent Intermediate and 45 per cent General; so that the General was raised 10 per cent. Although it appears from the schedule that there was a reduction, 25 per cent was the rate to countries receiving most favoured nation treatment. So those countries that enjoyed favoured nation treatment had the benefit of 25 per cent.

THE COMMISSIONER: The rates were only 25 per cent anyhow ?

MR. McRUER: Yes, my lord.

Page 14222 follows



14221

that is, that a high rate of duty should not be imposed where only a low rate of duty was required, a compromise was put into effect and the rates were made 25 per cent British Principalities, 25 per cent Intermediate and 45 per cent General; so that the General was raised 10 per cent. Although it appeared from the schedule that there was a reduction, 25 per cent was the rate to countries receiving most favoured nation treatment. So those countries that enjoyed favoured nation treatment had the benefit 25 per cent.

The question was: Two rates were only 25 per cent.

MR. MEMOR: Yes, my lord.

Page 14222 follows

THE COMMISSIONER: Well then, when the intermediate tariff was made 25% did not their position become bettered again?

MR. McRUER: They were only paying 25% before.

THE COMMISSIONER: No, but take the tariff item 30%, intermediate, and you say they only pay 25% because of the Most Favoured Nation Treaty. Then when you make the intermediate 25% did not they again get a reduction on account of the Most Favoured Nation Treaty?

MR. McRUER: No, that was the minimum rate, Mr. Hooper said.

THE COMMISSIONER: Well then, for all countries affected by the intermediate rates.

MR. McRUER: Yes, they were given the same rate as most Favoured Nation.

THE COMMISSIONER: Only the Most Favoured Nation? Oh, but you put 25% here as being intermediate tariff.

MR. HOOPER: Yes, in 1935 that applied to all under intermediate whether under Most Favoured Nation Treaty or not.

THE COMMISSIONER: Well then, when 30 did apply to them all, on five things or less, that was 30% intermediate tariff and then Most Favoured Nation only paid how much?

MR. HOOPER: 25%.

THE COMMISSIONER: When you make that item 25% how is it that they did not get another reduction



THE COMMENTS: Well then, when the inter-

THE COMMUNIST PARTY: No, but take the tariff item

[illegible][illegible]

When you make the intermediate box all not they

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MR. MONROE: No, that was the minimum rate.

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affected by the immediate reason.

MR. MONROE: Yes, they were given the same rate

Oh, but you put 25¢ here as being intermediate. That's

Not to join

to them all, on five things or less, that was 504

under Most Favoured Nation, since other nations ---

MR. HOOPER: Why did not they pay more?

THE COMMISSIONER: No, why did not the principle  
apply when you make it 30%?

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MR. HOOPER: There is no special treatment in that  
case.

MR. McRUER: They all get the same anyway.

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THE COMMISSIONER: Under this item there was no  
Most Favoured Nations left, is that it?

MR. McRUER: Apparently not.

THE COMMISSIONER: They were all treated alike?

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MR. McRUER: Yes. However, in 1933 the ad  
valorem duties were increased under the Intermediate  
Tariff from 25 to 35%.

THE COMMISSIONER: Now then, what about your Most  
Favoured Nation?

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MR. McRUER: How did the Most Favoured Nation get  
along in 1933?

MR. HOOPER: Well, new treaty at that time.

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MR. McRUER: There were no concessions made with  
respect to these fabrics under the Most Favoured Nation  
Treaty?

MR. HOOPER: That is right.

THE COMMISSIONER: They all paid 35 and 25?

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MR. McRUER: And your lordship will see that any  
gaps that were made in 1930 or let in 1930 were plugged  
up in 1933 in respect to the intermediate and general  
tariff.



under most favoured nation, since other nations --

THE COMMISSIONER: No, why did not the principle

apply when you make it 30%?

MR. HOOPER: There is no special treatment in the

MR. HOOPER: They all get the same anyway.

THE COMMISSIONER: Under this then there was no

most favoured nation left, is that it?

THE COMMISSIONER: They were all treated alike?

MR. HOOPER: Yes. However, in 1938 the

various duties were increased under the investigation

tariff from 25 to 35%.

THE COMMISSIONER: Now then, what about your most

favoured nation?

MR. HOOPER: Now did the most favoured nation get

along in 1933?

MR. HOOPER: Well, new treaty at that time.

MR. HOOPER: There were no concessions made with

respect to the e fabrics under the most favoured

MR. HOOPER: That is right.

THE COMMISSIONER: They all paid 35 and 30%

MR. HOOPER: And your tariff will see that they

there were made in 1930 or let in 1930 were 15%

Then we come to knitted goods generally. From 1907 to 1922, underwear, drawers and knitted goods, not otherwise provided, came in at 22½%, 30% and 35% respectively. In 1922 there was a reduction in the British Preference of 2½%. In 1929 there was an attempt made again at classifying these goods. So that the cheaper class of goods would pay lower rates of duty under the British Preference. The rates in 1929 were 20%, 30% and 35% for those goods valued at more than 90 cents per pound. Those valued at less than 90 cents a pound were subjected to the same rates of duty under the intermediate and general but 15% under the British Preference. Then in 1930 they were all grouped together again and the rates were 25%, 25% and 45%, which was again the increase under the British preference. It appears on the face of it a decrease under the Intermediate but I presume that was again accounted for by the Most Favoured Nation Treaty and an increase under the General, but this rate only prevailed until the 22nd of March, 1933, when they are increased under the Intermediate to 35% and specific duties put on of 25 cents and 30 cents a pound respectively under the Intermediate and general tariff. So that the increases in 1933 are made apparent in exhibit 812. In addition to the increase under the Intermediate from 25% to 35%, we have a specific duty and it is applicable again at the same rate on the different



Then we come to knitted goods generally. From 1937 to 1938, underwear, gloves and knitted goods, not otherwise provided, came in at 50% and 30% respectively. In 1938 there was a reduction in the British preference of 25%. In 1938 there was an attempt made again at classifying these goods, so that the cheaper class of goods would pay lower rates of duty under the British preference. The rates in 1938 were 30%, 30% and 30% for these goods valued at more than 50 cents per pound. Those valued at less than 50 cents a pound were subjected to the same rates of duty under the intermediate and general but not under the British preference. Then in 1939 they were all grouped together again and the rates were 30%, 30% and 40%, which was again the increase under the British preference. It appears on the face of it a decrease under the intermediate but I presume that was again accounted for by the most favored nation treaty and an increase under general, but this rate only prevailed until the 31st of March, 1938, when they are increased under the intermediate to 30% and specific duties put on at 30 cents and 30 cents a pound respectively under the intermediate and general tariff. So that the increase in 1938 was not a result of the intermediate and general tariff but a result of the most favored nation treaty.

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classes, the poorer and more expensive classes of goods. And silk knitted goods, for instance, come under this item just the same as cotton knitted goods and irrespective of the quality. Now, in addition to this Tariff protection that was given in 1933, special action was taken by the Minister of National Revenue on the 7th of June, 1932, by an order in council passed under Section 43 of the Customs Act, and an advance was made on the true invoice value at the place of export if in Canadian funds, or its equivalent in Canadian funds, as follows:

"On Wool Jersey Cloth 25 cents per pound,

On Cotton Stockinette 10 cents per pound."

Now, that was a different way of accomplishing the same results as putting on fixed valuation, only it did this: That if the price rose in the foreign country or the country of export this figure always provided for a margin of profit. For instance, had they fixed the price at, we will say, 40 cents a pound, and the price rose in the foreign country to 40 cents a pound and went on to 42 cents a pound, 42 cents a pound would prevail in place of the fixed valuation of 40 cents a pound, but under this principle where it is 25 cents advance on the selling price in the country of export, they always preserved the margin of safety that is provided irrespective of the raise of the price in the foreign country.



of course, the poorer and more expensive classes of goods  
the same as cotton knitted goods and  
irrespective of the quality. Now, in addition to  
this tariff protection that was given in 1932, a policy  
action was taken by the Minister of National Revenue  
on the 1st of June, 1933, by an order in council, to  
amend section 27 of the Customs Act, and an advance  
was made on the basis of value of the goods of  
export if in Canadian lands, or its equivalent in  
Canadian lands, as follows:  
and that the same was done  
in cotton stockings in cents per pound.  
Now, that was a different way of accomplishing the  
same result as having on fixed valuation, only it  
did this: that if the price rose in the foreign  
country or the country of export this value would  
provide for a margin of profit, for instance,  
and they fixed the price at, say, 10 cents, 15 cents  
a pound, and the price rose in the foreign country  
to 20 cents a pound and that would be a profit,  
25 cents a pound would provide a profit of the fixed  
valuation of 15 cents a pound, and that this  
principle where it is 15 cents a pound on the tariff  
price in the country of export, they always provided  
the margin of safety that is provided irrespective  
of the rise or the price in the foreign country.

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If it rose to 40 cents a pound the value for duty would be 65 cents a pound independent of exchange.

THE COMMISSIONER: Were any reasons given for this action in the Bulletin?

5 MR. McRUER: No, my lord, we have a copy of the Bulletin, it is Exhibit 878, we have it here. All the Bulletin says is,

10 "By an Order in Council passed under Section 43 of the Customs Act, the Honourable the Minister of National Revenue was authorized to fix the value for duty of Wool Jersey Cloth and Cotton Stockinettes and he has, under such authority, fixed the value for duty thereof at the following

15 advances on the true invoice value at the place of export if in Canadian funds, or its equivalent in Canadian funds, converted at the rate of exchange on the date of shipment:

20 Wool Jersey Cloth - 20 cents per lb.

Cotton Stockinette - 10 cents per lb."

THE COMMISSIONER: The Order in Council might give his reasons.

25 MR. McRUER: It might. Could we get a copy of the Order in Council?

THE COMMISSIONER: Because when things of that sort are done it is well to find out why they were done. There may be some good reason or there may not. It is a drastic action.

30 MR. McRUER: It is a drastic action and it does



It is rose to 40 cents a pound the value for duty would be 85 cents a pound independent of exchange. THE COMMISSIONER: were any reasons given for

this action in the Bulletin?

MR. MONTGOMERY: No, my lord, we have a copy of the Bulletin, it is exhibit 278, we have it here.

All the Bulletin says is,

"By an order in Council passed under section

43 of the Customs Act, the Honorable the Minister

of National Revenue was authorized to fix the

value for duty of wool Jersey Cloth and Cotton

stockings and he has, under such authority,

fixed the value for duty thereof at the following

advances on the true invoice value as follows:

of export if in Canadian funds, or its equivalent

in Canadian funds, converted at the rate of

exchange on the date of shipment:

Wool Jersey Cloth - 25 cents per lb.

Cotton Stockings - 10 cents per lb.

THE COMMISSIONER: The order in Council might give

his reasons.

MR. MONTGOMERY: It might. Could we get a copy

of the order in Council?

THE COMMISSIONER: Because when things of that

sort are done it is well to find out why they were

there may be some good reason or there may not.

It is a drastic action.

MR. MONTGOMERY: It is a drastic action and it does

more than merely raise the value for duty, it brings into operation the dumping duties as well and it keeps in operation the dumping duties, by reason of the fact that it is always an addition to the home market selling price. If, as I say, the value had been fixed at 40 cents and the Home market selling price rose to above the 40 cents, then there would be no dumping duty applicable at all because the home market price was above the fixed valuation but fixing the value for duty at 25 cents above the invoice value, then you keep the dumping duty always operating.

THE COMMISSIONER: You create a void for it to work in?

MR. McRUER: Yes.

THE COMMISSIONER: What about this appraisers' Bulletin - has it been revoked?

MR. McRUER: Yes, it was cancelled on the 27th of December, 1935. The appraisers' bulletin goes on to read as follows:

"In the case of goods shipped on consignment without sale prior to shipment, the value for duty shall be the value as sold for home-consumption in the usual and ordinary course of trade in like quantity and condition at the time and place of export, converted into Canadian funds at the rate of exchange on the date of shipment plus the above advances.

The provisions of Section 6 of the Customs



more than merely raise the value for duty, it brings  
into operation the dumping duties as well and it keeps  
in operation the dumping duties, by reason of the  
fact that it is always an addition to the home market  
selling price. If, as I say, the value had been  
fixed at 40 cents and the Home market selling price  
rose to above the 40 cents, then there would be no  
dumping duty applicable at all because the home market  
price was above the fixed valuation but fixing the  
value for duty at 30 cents above the invoice value,  
then you keep the dumping duty always operating.  
THE COMMISSIONER: You propose a vote for it to  
be taken?  
MR. BRYDIE: Yes.  
MR. COMMISSIONER: What about this question,  
Bulletin - has it been revoked?  
MR. BRYDIE: Yes, it was cancelled on the 27th  
of December, 1945. The question, Bulletin  
goes on to read as follows:  
"In the case of goods shipped on consignment  
without sale prior to shipment, the value for  
duty shall be the value as sold for home-  
consumption in the usual and ordinary course  
of trade in like quantity and condition at the  
time and place of export, converted into Canadian  
dollars at the rate of exchange on the date of  
shipment."

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Tariff Act to apply, and goods shipped on consignment without sale prior to shipment will be subject to the same special duties as if the goods had been sold prior to shipment at aforesaid home consumption value.

The above values not to apply on importations bona fide purchased on or before the 7th of June, 1932, and imported and entered at Customs on or before the 7th of July, 1932."

Now then, Exhibit 879 deals with an example of the effect of the Bulletin on the knitted wool jersey cloths from Great Britain in the grey. In May, 1932, 100 pounds at 3 shillings 9 pence would be worth £18 15s at \$4.86 would amount to \$91.25. The duty under the British Preferential Tariff Item, ad valorem duty of 25% less 10% amounts to \$20.53. The excise tax, 3%, on \$111.78 amounts to \$3.35. The dumping duty at \$4.40, £18 15s at \$4.40 - that is when there was a special valuation on the pound for dumping duty purposes at that time - less £18 15s at \$4.10 - now, that would be the current rate of exchange - that would amount to \$5.44, making a total duty and excise of \$29.32. On the invoice value at \$4.11 of \$77.06. Now, in August, 1932 - this is after the appraisers' bulletin comes into effect on the same thing, we have the total duty and excise amounting to \$51.66 or the price to the consumer rose from \$106.38 to \$128.54.



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...to apply, and goods shipped or consigned  
...prior to shipment will be subject  
...to the same special duties as if the goods had  
...been sold prior to shipment at a reasonable home  
...consumption value.

The above values not to apply on imported goods  
...purchased on or before the 31st of June,  
1932, and imported and entered at Customs on or  
before the 31st of July, 1932.

...effect of the 2.5% reduction on the United Kingdom  
...clothes from Great Britain in the grey. In grey,  
1932, 100 pounds at 8 shillings 9 pence would be worth

...the duty under the British Preferential Tariff from  
...and valorem duty of 3% less 10% amounts to \$20.52.  
The excise tax, 3%, on \$111.75 amounts to \$3.35.

The dumping duty at \$4.40, 118 lbs at \$4.40 - that is  
when there was a special valuation on the pound for  
dumping duty purposes at that time - less the 1% at

\$4.10 - now, that would be the current rate of exchange  
that would amount to \$3.44, making a total duty and  
...of \$4.10. In the latest value at \$4.11

...the total duty and excise amounting to  
...the consumer rose from \$18.5

THE COMMISSIONER: Then the duty and excise was raised from \$29.32 to \$51.66.

MR. McRUER: Yes, or from 38% to 67%. So, again, we have here another operation of an increase done by Order in Council that was very much more drastic than anything that had been adopted by Parliament or put before Parliament, at any rate - of course, Parliament authorized the doing of it by Order in Council.

Now, the next example deals with the same sort of an article but in respect to the United States Market. We have on 16th of May, 1932 - that is before the Appraisers' Bulletin, the total duties amounting to \$66.63 or 49%, and after the Appraisers' Bulletin amounting to \$105.88 or 76%. Then the next illustration, my lord, the third one on page 109 shows the additional increase that there was over and above the increases provided by the appraisers' Bulletin by the introduction of the specific duty and that increased the duty again from \$105.88 to \$135.75. So that it was on that occasion 99%. So that we have it during about a year from the 16th of May, 1932, to the 2nd of May, 1933, going up these steps from \$66.03 to \$105.88 due to the issuance of the Appraisers' Bulletin, the action under the Order in Council, and from \$105.88 to \$135.75, due to the action of Parliament by putting on a specific duty of 25 cents a pound.



THE COMMISSIONER: Then the duty and excise was

raised from \$20.00 to \$25.00.

MR. MORRIS: Yes, or from \$25 to \$30, and

we have here another operation of an increase done  
by Order in Council that was very much more drastic  
than anything that had been adopted by Parliament  
or put before Parliament, at any rate - of course,  
Parliament authorized the doing of it by Order in

Council.

Now, the next example deals with the same sort of

an article but in respect to the United States Market

we have on 15th of May, 1900 - that is before the

Parliamentary Bill, the duty was raised from \$20.00

to \$25.00 or 40%, and after the appraisers' Bill it

amounting to \$100.00 or 70%. Then the next

illustration, my Lord, the third one on page 100 shows

the increase provided by the appraisers' Bill in

by the introduction of the specific duty and that

increased the duty again from \$100.00 to \$150.00.

So that it was on that occasion 20%.

So that we

have it during about a year from the 15th of May,

1900, to the end of May, 1900, going up these steps

from \$20.00 to \$100.00 due to the increase of the

Parliamentary Bill, the duty was raised from \$100.00

to \$150.00, and then from \$150.00 to \$200.00.

And so it was a series.

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5 But we can make a comparison there of what is  
done under Order in Council as compared with what was  
done by Parliament - the rate was increased from 49%  
to 76% by the Appraisers' Bulletin and from 76% to  
99% by action of Parliament. And it does make  
one wonder whether the effect of the Appraisers'  
Bulletin that was in effect would ever be before  
Parliament when they are called upon to consent to the  
10 increases that took place when the specific duties  
were added. One just wonders when departmental  
action is taken in this way whether there is anything  
that goes before Parliament that says that we have  
by the issue of an Order in Council increased these  
15 duties in 1933 from 49% to 76% and now we ask you by  
the imposition of a specific duty to increase them  
from 76% to 99%.

20 THE COMMISSIONER: The Order in Council would be  
passed under Section 43.

MR. McRUER: Yes. I will get that Order in Council.

25 THE COMMISSIONER: As the Section authorized  
taxing by Order in Council, one would think under  
proper practice they would advise the proper author-  
ities - "Now, we want you to add a specific duty to  
it." That would be the proper thing to do. I don't  
know whether it was done, though.

30 MR. McRUER: One would probably need to look up  
Hansard to see what was said when these things were  
introduced.



But we can make a comparison there of what is  
 done under Order in Council as compared with what is  
 done by Parliament - the rate was increased from 40  
 to 75 by the A. parliaments, Parliament and from 75 to  
 100 by action of Parliament. And it does make  
 one wonder whether the effect of the A. parliaments,  
 Parliament that was in effect would ever be before  
 Parliament when they are called upon to consent to  
 increases that took place when the specific duties  
 were raised. The fact is that in this way whether there is anything  
 that goes before Parliament that says that we have  
 by the issue of an Order in Council increased these  
 duties in 1903 from 40 to 75 and now we ask you  
 the imposition of a specific duty to increase from  
 from 75 to 100.  
 THE COMMISSIONER: The Order in Council would be  
 passed under section 45.  
 MR. McLEOD: Yes. I will get that order in C.  
 THE COMMISSIONER: As the section authorized  
 action by Order in Council, the whole thing would  
 be done by practice they would advise the proper authority  
 to do it. That would be the proper thing to do. I don't  
 think it is necessary to say that.  
 MR. McLEOD: The whole thing would be done  
 in regard to see what was said and then take the

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MR. KELLOCK: There is Section 43, sub-section 2 of the Customs Act:

"Every order of the Governor in Council authorizing the Minister to fix the value for duty of any class or kind of such goods, and the value thereof so fixed by the Minister by virtue of such authority, shall be published in the next following issue of the Canada Gazette."

THE COMMISSIONER: That is a good thing. That is proper, that provides publication in the Gazette.

MR. KELLOCK: Yes.

THE COMMISSIONER: I think it would be proper practice then for the Minister of Finance to inform the House of Commons and probably he did. I think that ought to be done.

MR. McRUER: I do submit that the whole principle underlying the fixing of taxes by Order in Council in this way is a wrong one, that taxes ought to be imposed by Act of Parliament and not by Order in Council, unless there can be some very definite reason shown.

THE COMMISSIONER: I think it has become the practice of late years in most countries for Parliament to authorize somebody - say, the President of the United States to do things to the Tariff by what we call Orders in Council, by decree.

MR. McRUER: That may be but I wonder ---

THE COMMISSIONER: I think the proper practice should require not only the publication of the Order in Council in the Gazette but its submission to



MR. KELLER: There is Section 48, sub-section 2  
of the Customs Act:

"Every order of the Governor in Council  
authorizing the Minister to fix the value  
for duty of any class or kind of such goods,  
and the value thereof so fixed by the Minister  
pursuant of such authority, shall be published  
in the next following issue of the Customs Gazette."

THE COMMISSIONER: That is a good thing. That  
is proper, that provides publication in the Gazette.

THE COMMISSIONER: I think it would be proper  
practice then for the Minister of Finance to inform  
House of Commons and probably he did. I think the  
order to be done.

MR. BRIDIE: I do submit that the whole principle  
of this way is a wrong one, that taxes ought to be  
imposed by act of Parliament and not by order in Council  
unless there can be some very definite reason shown

THE COMMISSIONER: I think it has become the  
practice of late years in most countries for Parli-  
ament to authorize generally - say, the President of the  
Council to fix the rates in the Customs Act by order  
and orders in Council, by decree.

MR. BRIDIE: I think the proper practice  
should be to have the rates fixed by Parliament

Parliament as is done in many other cases in so many days within the opening of each session.

5           MR. McRUER: I was just wondering how much the consumers know or the Members of Parliament, who represent the consumers, in regard to these matters in legislative form - how much they know of the real effect of the action that can be taken under an appraisers bulletin of that sort. I think it is questionable.

10           Now, the publication of the Appraisers' Bulletin had the effect of raising the duties and taxes collected on ad valorem basis from 49% to 92%, while the imposition of the specific duties in 1933 had the effect of raising duties and taxes collected, on an ad valorem basis, from 92% to 183%. That is the percentage increase.

15           Now, exhibit 879-C is illustrative of the effect of the imposition of specific duties in 1933 on knitted cotton underwear from Japan.

20           MR. KELLOCK: Might I ask my friend where the illustration on the preceding page 110 comes from.

          MR. HOOPER: It is Exhibit 879-B.

25           MR. KELLOCK: Well, my lord, what is not clear on page 110, the paragraph introducing that: "The following statement illustrates the effect of the above changes...." which I cannot read as including the Bulletin of the 7th of June, 1932, Exhibit 878, set out on page 107 but on page 107 it only relates to wool jersey cloth and cotton



SECRET

Revised and published by the  
Department of the Interior, June 1906

stockinette. Is the illustration on page 110 all cotton fabric?

MR. McRuer: Knitted cotton fabric. Yes, it comes under that tariff item, does not it?

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MR. HOOPER: Yes.

MR. KELLOCK. Which is it? Wool jersey cloth or cotton stockinette?

MR. HOOPER: Knitted cotton fabrics.

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MR. KELLOCK: Is that cotton stockinette?

MR. HOOPER: Yes.

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MR. McRuer: On this item dealt with in Exhibit 879-C, the result of the increase in the duty collected on ad valorem basis was from 117% to 244%. In Exhibit 879-D, on knitted artificial silk sweaters, the increase in duty and taxes collected on ad valorem basis increased from 29% to 84% and on Exhibit 879-E on cotton stockinette imported under tariff item 531, the effect of the increase of duty and taxes payable on ad valorem basis from 29% to 88%.

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I now come to deal with hosiery at page 112.

From 1907 to 1928 hosiery was dealt with under one item, tariff item 582-A and rates prevailing were 25%, 32½% and 35% ad valorem. In 1928 the item was divided into six sections, according to whether the stockings were of cotton, wool, silk or artificial silk, and, in the case of woollen stockings, there were two extra items, making three in all for woollen stockings, graded according to value, which virtually

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stockinette. Is the illustration on page 110 all  
cotton fabric?

MR. WATSON: Knitted cotton fabric. Yes, it  
comes under that tariff item, does not it?

MR. WATSON: Yes.

MR. KILLICK: Which is it? Wool jersey cloth or

stockinette?

MR. WATSON: Knitted cotton fabric.

MR. KILLICK: Is that cotton stockinette?

MR. WATSON: Yes.

MR. WATSON: On this item dealt with in Exhibit

879-C, the result of the increase in the duty collected  
on ad valorem basis was from 11% to 24%.

Exhibit 879-D, on knitted artificial silk sweaters,  
the increase in duty and taxes collected on ad valorem  
basis increased from 22% to 34% and on Exhibit 879-E

on woven artificial silk sweaters,  
the effect of the increase of duty and taxes  
payable on ad valorem basis from 22% to 34%.

I now come to deal with hosiery at page 112.

From 1907 to 1928 hosiery was dealt with under one  
item, tariff item 522-A and rates prevailing were  
32%, 32% and 30% ad valorem.

In 1928 the item  
was divided into six sections, according to whether  
the stockings were of cotton, wool, silk or artificial  
silk, and, in the case of woolen stockings, there  
were three items, making three in all for woolen  
stockings, graded according to value, which gives

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was a separation in regard to qualities, that is, ranging from the coarse strong type to the finer grades.

Now, an attempt here was made apparently to make provision for lower rates of duty on cheaper classes of goods. That seems to have been the prevailing

intention of the revisions of 1928 all through. We come across it time and again. Knitted cotton

stockings, under Item 530, were provided for at 20%, 27½% and 30%. That was a reduction of 5% on both

British Preference and Intermediate.

THE COMMISSIONER: And the General?

MR. McRUER: And the General as well, my lord.

Woollen stockings worth more than \$1.50 per pound were provided for at 27½%, 32½% and 35%. There was an increase of 2½% on these more expensive ones.

THE COMMISSIONER: But under the British Preference only?

MR. McRUER: Yes, my lord. Woollen stockings worth more than 90 cents a pound and not exceeding \$1.50 per pound, 25%. The increase there was 5% under the British Preference only. No, ---

THE COMMISSIONER: No, left everything as it was.

MR. McRUER: Yes, left it as it was all the way across. Worth 90 cents per pound or less there was a reduction of 5% all the way across. So that we have the reduction of 5% on cotton stockings and on the woollen stockings of the cheaper grades. Then silk stockings were at 25%, 32½% and 35%.



... from the course strong type to the finer, more  
... an attempt here was made apparently to make pro-  
... vision for lower rates of duty in cheaper classes of  
... goods. That seems to have been the prevailing  
... intention of the revision of 1883 all through.  
... came across it time and again. Knitted cotton  
... 27 1/2 and 30 1/2.

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... that was a reduction of 5% on both  
... British Preference and intermediate.  
... THE COMMISSIONER: And the General?

... R. McNEIL: And the General as well, my lord.  
... woolen stockings worth some from 15.50 per pound  
... provided for at 27 1/2, 28 1/2 and 30 1/2. The increase of 2 1/2% on these more expensive ones.

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... 27 1/2, 28 1/2 and 30 1/2.

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... Mr. McNEIL: Yes, my lord.  
... worth more than 30 cents a pound and not exceed 15  
... 11.50 per pound, 20 1/2. The increase there was 2 1/2%  
... under the British Preference only. No.

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... THE COMMISSIONER: No, left everything as it was.  
... R. McNEIL: Yes, left it as it was all the way.  
... worth 30 cents per pound or less there.

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... have the reduction of 5% on cotton stockings and on  
... with a view to the reduction of the duty on 5%.

THE COMMISSIONER: The same as before?

MR. McRUER: Yes. And artificial silk stockings the same as before. Then in 1930 these divisions were all done away with and provision was made for duties at 30%, 32½% and 35% ad valorem, with a specific of \$1.00, \$1.35 and \$1.50 per dozen.

MR. THE COMMISSIONER: No, that was in 1932, Mr. McRuer.

MR. McRUER: No, in 1930. In 1932 there was a reduction in the specific under the British Preference. In 1932 the only change that was made was the reduction on the specific duty under the British Preference from \$1.00 to 75 cents and these rates of duty still prevailed.

MR. KELLOCK: Less 10% in the case of British Preference again.

MR. McRUER: Oh yes, absolutely, we realise that all the way through.

THE COMMISSIONER: Tell me exactly how that "Less 10% British Preference" works. It cannot apply to every item because you have the British Preference here, for instance, 30% ad valorem and then dozen pair 75 cents, ---

MR. McRUER: There is just 10% taken off the whole amount of duty payable.

THE COMMISSIONER: In the case of all shipments or certain shipments?

MR. McRUER: Page 90 of the Customs Tariff Act,



The Committee: The same as before?

Mr. Brown: Yes. And artificial silk stockings.

The same as before. Then in 1932 these divisions

were all done away with and provision was made for

divides at 30%, 35% and 38% and 40% and 45% and 50% and 55%

and 60% and 65% and 70% and 75% and 80% and 85%

and 90% and 95% and 100% and 105% and 110% and 115%

In 1933 there was a reduction in the specific under the British preference

In 1932 the only change that was made was the reduction

on the specific duty under the British preference

from \$1.00 to 75 cents and these rates of duty still

less in the case of British

preference again.

Mr. Brown: Oh yes, approximately, we realize that

all the way through.

The Committee: Well we already know that

"less for British preference" works. It cannot apply

to every item because you have the British preference

here, for instance, 30% on woolen and then down

to 15 cents, ---

Mr. Brown: There is just for taken out the way

of the duty.

In the case of all shipments

of certain materials

the same as before.

Section 5,

"The importer of goods entitled to the benefit of the British Preferential Tariff shall be entitled to a discount of 10% on the amount of duty computed under such tariff, when such goods are conveyed without transshipment ...."

THE COMMISSIONER: That is the point.

MR. McRUER: ".....from a port of a country enjoying the benefits of the British Preferential Tariff into a sea, lake or river, port of Canada."

THE COMMISSIONER: That is when direct shipment from British Dominions to a port in Canada, then there is additional 10% cut.

MR. McRuér: Yes. Then sub-section 2, provides: "Goods entitled to the benefit of the British Preferential Tariff shall be entitled to the discount authorized by this section, when shipped on a through bill of lading consigned to a consignee in a specified port in Canada, when such goods are transferred at a port in a British possession and conveyed without further transshipment into a sea, lake or river port of Canada."

THE COMMISSIONER: Now, can you give me an example of a case where British Preferential rate applies but without the 10%?

MR. HOOPER: If the goods were to be shipped to Canada on a through bill of lading through the



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Section 5,

"The importer of goods entitled to the benefit of the British preferential tariff shall be entitled to a discount of 10% on the amount of duty computed under such tariff, when such goods are conveyed without transshipment."

THE COMMISSIONER: That is the point.

MR. MCKENZIE: "...from a port of a country

enjoying the benefits of the British preferential tariff into a sea, lake or river, port of Canada

THE COMMISSIONER: That is when direct shipment from

British Dominions to a port in Canada, then there is

additional 10% cut.

MR. MCKENZIE: Yes. Then sub-section 2, provide

"Goods entitled to the benefit of the British

preferential tariff shall be entitled to the

discount authorized by this section, when shipped

on a through bill of lading consigned to a

consignee in a specified port in Canada, when

such goods are transferred at a port in a

specified port in Canada, when shipped

transshipment into a sea, lake or river port

of Canada."

THE COMMISSIONER: Now, can you give me an example

of a case where British preferential rate applies

without the 10%?

MR. MCKENZIE: It is possible to be shipped

from a port in Canada to a port in Canada

United States.

THE COMMISSIONER: Through the United States, there would be no 10%.

MR. HOOPER: No.

5 MR. McRUER: Supposing they are shipped from South Africa and transhipped at Liverpool and then to Canada direct to lake, river port of Canada, you would get the 10%.

10 THE COMMISSIONER: But if they came otherwise, if they came through San Francisco.

MR. McRUER: On a direct bill of lading, you would not get the 10%.

15 MR. HALLAM: And you would not get the British Preference.

20 THE COMMISSIONER: If it is a through Bill of lading you get the British Preference but you do not get the 10% if it goes through, say, a United States port.

25 MR. McRUER: Exhibit 882, at the top of page 114, shows that, for the fiscal year ending on March 31st, 1930, there were 70,197 dozen pairs of socks or stockings, wholly or in part of silk, imported into Canada, while in 1935 there were 868 dozen pairs.

30 The following table of imports taken from the "Trade of Canada", shows the effect of these Customs duties on importations of socks and stockings into Canada and how competition from outside Canada has been practically eliminated. Now, in 1930,



United States.

THE COMMISSIONER: Through the United States,

there would be no loss.

MR. HORTON: No.

MR. HORTON: The sailing they are shipped from

South Africa and transhipped at Liverpool and then

to Canada direct to Lake, River Port of Canada,

you would get the loss.

THE COMMISSIONER: But if they came otherwise,

if they came through San Francisco,

not get the loss.

THE COMMISSIONER: It is a through bill of

lading you get the British preference but you do not

get the loss if it goes through, say, a United States

port.

MR. HORTON: Exhibit 283, at the top of page 14

shows that, for the fiscal year ending October 31st,

1900, there were 70,197 dozen pairs of socks or

stockings, wholly or in part of silk, imported into

Canada, while in 1899 there were 888 dozen pairs.

The following table shows the effect of these duties

"Duty of Canada", shows the effect of these duties

on the importation of socks and stockings into

Canada and the competition that is now being

met with by the Canadian industry.

cotton socks and stockings came into the extent of  
592,453 dozen pairs. In 1935, 2,164 dozen pairs.  
Woollen socks and stockings, 549,323 dozen pairs  
in 1930, and in 1935, 85,911. Artificial silk  
socks and stockings, 517,008 dozen pairs in 1930  
and in 1935 617 dozen pairs. How about silk stockings,  
Mr. Hooper?

MR. HOOPER: The word "silk" has been left out.

MR. McRuer: I just want to verify the figure  
on page 114 whether it includes both artificial and  
silk stockings or entirely of artificial silk.

THE COMMISSIONER: Oh well, I think you can have  
it looked up between now and 2.30.

-- The Commission adjourned at 12.30 P.M. to resume  
at 2.30 P.M.



...the ... of ...  
... in ...

... socks and stockings, 543,383 dozen pairs  
... in 1930, and in 1935, 83,911.

... socks and stockings, 517,003 dozen pairs in 1930  
... and in 1935 517 dozen pairs. How about silk stockings?

Mr. Hooper?  
Mr. Hooper: The word "silk" has been left out.

Mr. Hooper: I just want to verify the figure

on page 114 whether it includes both artificial and  
silk stockings or entirely of artificial silk.

Oh well, I think you can have  
it looked up between now and 2.30.

--

-- The Commission adjourned at 12.30 P.M. to resume  
at 2.30 P.M.

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AFTERNOON SESSION

-- The Commission resumed at 2.30 p.m.

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5 MR. KILLOCK: Do you want to correct that British preferential matter?

MR. McRUER: I am going to deal with that just before I leave this. Just as we adjourned, my lord, I had raised the question of silk stockings. I had overlooked the fact that, although they are not dealt with in the table that appears on page 114, they are dealt with in the first paragraph on that page, and that is that in 1930 there were importations of 70,197 dozen pairs and in 1935 868 dozen pairs.

15 THE COMMISSIONER: You referred to that this morning.

MR. McRUER: Yes; when I was dealing with the other table I thought I had overlooked it..

Now, the comment about the middle of the page, page 114, deals with the matter that was referred to yesterday, and that is, from August, 1933 until July, 1934 the amount of the processing tax was included in estimating the value for regular and special duty. Now, we had the provisions of the Customs Tariff Act and the Customs Act, whereby the excise duties payable abroad might be disregarded in estimating the value for duty and special duty.

25 THE COMMISSIONER: Yes.

MR. McRUER: But for that year from August, 1933 to July, 1934 they were not disregarded in the United States.



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MR. MILLER: Do you want to correct that which

you corrected before?

MR. MILLER: I am going to deal with that just before I leave this. Just as we adjourned, my lord, I had raised the question of silk stockings. I had overlooked the fact that, although they are not dealt with in the table that appears on page 114, they are dealt with in the first paragraph on that page, and that is that in 1930 there were importations of 70,187 dozen pairs and in 1935 868 dozen pairs.

THE CHAIRMAN: You referred to that this morning. MR. MILLER: Yes; when I was dealing with the other

table I thought I had mentioned it.

MR. MILLER: I am going to deal with the other table, the amount of the proceeds of the duty on the 114, which is the amount that was included in the table, and that is, from August, 1935 until July,

the amount of the proceeds of the duty on the 114, which is the amount that was included in the table, and that is, from August, 1935 until July, estimating the value for regular and special duty. Now, we have the provisions of the Customs Act, and the Customs Act, whereby the value for regular and special duty is estimated in estimating the value

of the duty.

MR. MILLER: Yes.

MR. MILLER: But let me say from August, 1935, that they were not included in the table.

THE COMMISSIONER: They were not disregarded by Canada.

MR. McRUER: They were not disregarded by Canada.

After July, 1934, they were disregarded. I also mention the fact that in Great Britain there is six pence a pound levied on artificial silk yarns by way of excise. This was a shilling a pound prior to July 2, 1934. The tax is not payable on goods manufactured for export. It is, however, included in estimating the value for regular duty notwithstanding the fact that it is not included in the selling price of the goods to the purchaser in Canada.

THE COMMISSIONER: But it is included in the selling price of the goods to the purchaser in Great Britain.

MR. McRUER: Yes, my lord,

THE COMMISSIONER: I suppose you could say in that case it becomes part of the home market value.

MR. McRUER: Oh yes. There is a drawback, however, allowed to the manufacturer in England of a shilling when goods are manufactured for export.

THE COMMISSIONER: That was when the tax was a shilling?

MR. McRUER: No, my lord; although it is six pence now they allow them a drawback of a shilling and it really amounts to a bonus of six pence.

THE COMMISSIONER: There is nothing of a drawback there. If he doesn't pay any tax and they give him a shilling -- well, they must give him six pence; that is what it amounts to. They are bonusing export.

MR. McRUER: It really amounts to a bonus of export to that extent.



THE COMMISSIONER: Yes, my friend, they were not discharged by Canada.

MR. McLEOD: They were not discharged by Canada. I also

After July, 1934, they were discharged. I also

mention the fact that in Great Britain there is a

per cent a pound levied on artificial silk yarns by way

excise. This was a shilling a pound prior to July

1934. The tax is not payable on goods manufactured

for export. It is, however, included in estimating

the value for regular duty notwithstanding the fact

that it is not included in the selling price of the

goods to the purchaser in Canada.

THE COMMISSIONER: But it is included in the selling

price of the goods to the purchaser in Great Britain.

MR. McLEOD: Yes, my friend.

THE COMMISSIONER: I suppose you could say in that

case it becomes part of the home market value.

MR. McLEOD: Oh yes. There is a drawback, however

allowed to the manufacturer in England of a shilling

when goods are manufactured for export.

THE COMMISSIONER: That was when the tax was a

shilling.

MR. McLEOD: No, my friend; although it is six pence

now, which is a drawback of a shilling and it

is really a drawback of six pence.

THE COMMISSIONER: There is nothing of a drawback

there. It is simply a drawback of six pence and that is

a shilling — well, that would give the goods a

value of six pence. They are denoting export.

MR. McLEOD: It really amounts to a drawback of six

pence.

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THE COMMISSIONER: That rather surprises me. It is a fact, is it?

MR. McRUER: It is a fact.

MR. HAILAM: It was nine pence at one time.

MR. HOOPER: It is not exactly a bonus.

THE COMMISSIONER: Why not?

MR. HOOPER: There are other things to be taken into consideration. You have waste. You have paid six pence a pound duty on the yarn and in weaving you may have 10 to 20% waste.

THE COMMISSIONER: The manufacturer has paid the excise duty on his raw material and then when the finished product comes along for export he is given back six pence.

MR. HOOPER: He is given back a shilling, and he may have some foreign yarns in his fabric on which he has paid duty, and you have a combination there when the goods are shipped. You cannot say it is altogether a bonus. It may be a rebate on some of the customs duties.

MR. KELLOCK: It is in part, at least, a bonus.

MR. McRUER: Mr. Whitely had prepared in the Bureau of Statistics a schedule which shows Canada's imports of textiles with the duty paid thereon and the average ad valorem rates of duty from the fiscal years 1929 to 1936. This is prepared independently of the preparation of my brief. Mr. Whitely is getting copies of it. I had thought it was with one of these exhibits that had been filed in your lordship's absence, but it is purely a compilation from the trade



THE COMMISSIONER: That matter surprised me. It is  
a fact, is it?  
MR. HOBBS: It is a fact.  
MR. WILLIAM: It was nine years at one time.  
MR. HOBBS: It is not exactly a bonus.  
THE COMMISSIONER: Why not?  
MR. HOBBS: There are other things to be taken into  
consideration. You have waste. You have paid six  
pence a pound duty on the yarn and in weaving you  
may have 10 to 20% waste.  
THE COMMISSIONER: The manufacturer has paid the  
excise duty on his raw material and then when the  
finished product comes along for export he is given  
back six pence.  
MR. HOBBS: He is given back a shilling, and he may  
have some foreign yarns in his loom on which he has  
paid duty, and you have a combination there when the  
goods are shipped. You cannot say it is a rebate.  
a bonus. It may be a rebate on some of the customs  
duties.  
MR. HOBBS: It is in part, at least, a bonus.  
MR. HOBBS: Mr. Wilby had prepared in the House  
of Commons a schedule which shows Canada's import  
of textiles with the duty paid thereon and the aver-  
age foreign rates of duty from the fiscal years 1929  
to 1936. This is prepared independently of the  
preparation of my brief. Mr. Wilby is getting  
copies of it. I had thought it was with one of the  
documents that was sent to me.

figures.

MR. HEWARD: Dealing with what commodities?

MR. McRUER: Textiles, the different types, cotton and its products; flax, hemp and jute products; silk and its products; wool and its products; artificial silk and its products; other fibres and their products; mixed textile products. One of the reasons I wish to deal with this is because certain statements are made from time to time as to the average rates of duty payable on certain textiles imported into Canada, and unless one takes those that are free, unless you segregate them average rates of duty don't mean very much. For instance, statements are made as to the average rate of duty payable on imports from Great Britain, and figures are taken from Trade of Canada to support low average rates of duty, and when you analyze it you find into these have been taken all dutiable imports irrespective of whether any duty at all is paid under the British preference. They may be free under British preference but dutiable under other schedules, and averaging them in with other rates that are on goods that are dutiable under British preference does not give you quite a clear picture.

THE COMMISSIONER: What is it you intend to do now?

MR. McRUER: I just intend to point out what this statement shows in respect to rates of duty on these articles during the different years.

THE COMMISSIONER: Is this one of our exhibits?

MR. McRUER: It has not been marked as an exhibit.



MR. TOWN: Dealing with what commodities?  
MR. TOWN: Textiles, the different types, cotton  
the products; flax, hemp and jute products; silk and  
the products; wool and its products; artificial silk  
and its products; other fibres and their products; mix  
textile products. One of the reasons I wish to deal  
with this is because certain statements are made from  
time to time as to the average rates of duty payable  
on certain textiles imported into Canada, and unless  
one takes those that are free, unless you aggregate the  
average rates of duty don't mean very much. For instance  
statements are made as to the average rate of duty  
payable on imports from Great Britain, and figures are  
taken from Trade of Canada to support low average rates  
of duty, and when you analyse it you find into these  
have been taken all dutiable imports irrespective of  
whether any duty at all is paid under the British  
preference. They may be free under British preference  
but dutiable under other schedules, and averaging the  
is with other rates that are on goods that are dutiable  
under British preference does not give you quite a  
picture.  
THE COMMISSIONER: What is it you intend to do to  
MR. TOWN: I just intend to point out what this  
statement shows in respect to rates of duty on these  
articles during the different years.  
THE COMMISSIONER: Is this one of our exhibits?  
MR. TOWN: It is not an exhibit as an exhibit

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It was prepared in the Bureau of Statistics.

THE COMMISSIONER: Perhaps we had better make it an exhibit.

MR. McRUER: Yes, my lord.

5 THE COMMISSIONER: Then we will know how to find it. The last number here is 1323. This will be 1324.

SECRETARY WHITELEY: Are you giving it a title?

10 MR. McRUER: It is Canada's imports of textiles with duty collected thereon, also average ad valorem rates of duty from 1929 to 1936.

EXHIBIT NO. 1324: Canada's imports of textiles with duty collected thereon, also average ad valorem rates of duty, from 1929 to 1936.

15 MR. McRUER: Now, the first item in 1929, for instance, is cotton and its products. The dutiable imports are \$31,000,000 and the free imports \$32,000,000. Of course, one realizes that all raw cotton must come in under that, and so on, things that are raw material. The important item is the average ad valorem rate on  
20 dutiable imports was 22.2%. In 1930 it was practically the same.

25 THE COMMISSIONER: The average ad valorem rate on dutiable imports is just about double the average on the total imports.

MR. McRUER: Yes, because they are almost split 50-50.

30 THE COMMISSIONER: At least, in that first item, cotton and its products. At the foot I see it is 24.5 as against 15.5.

MR. McRUER: In 1930 it was practically the same,



It was prepared in the Bureau of Statistics.

THE COMMISSIONER: Perhaps we had better name it as

exists.

THE COMMISSIONER: Yes, my lord.

THE COMMISSIONER: Then we will know how to find it

The last number here is 1888. This will be 1884.

SECRETARY WHITELY: Are you giving it a title?

MR. McNEIL: It is Canada's imports of textiles with

and collected thereon, also average and value of value

of duty from 1884 to 1888.

DOCUMENT NO. 1384:

Canada's imports of textiles with  
also average and value of value  
of duty from 1884 to 1888.

MR. McNEIL: Now, the first item in 1884, for instance

is cotton and its products. The dutiable imports

are \$31,000,000 and the free imports \$28,000,000.

Of course, one realizes that all raw cotton must come

in under that, and so on, things that are raw material

The important item is the average and value of value

dutiable imports was 22.2%. In 1880 it was 22.2%

the same.

THE COMMISSIONER: The average and value of value

dutiable imports is just about double the average of

the total imports.

THE COMMISSIONER: At least, in that first item,

cotton and its products. At the foot I see it is

as against 12.5.

MR. McNEIL: In 1880 it was practically the same

22.5. In 1931 it is 25.2, in 1932 30.9, in 1933 28.9,  
in 1934 26.7, in 1935 26.1 and in 1936 25.7. Of course,  
that would be the 31st of March, 1936. Now, if we  
take wool, my lord, wool and its products -- probably  
we should take silk first. We do not need to bother  
with flax and hemp. Silk in 1929, the average ad  
valorem rate on dutiable imports was 28.7, in 1930 it  
was 29.2, in 1931 32.0, in 1932 37 --

THE COMMISSIONER: 37.2.

MR. McRUER: 37.2; in 1933 37.4, 1934 34.7, 1935  
34.7, 1936 30.9.

THE COMMISSIONER: No, that is wrong. You are  
dealing with wool and its products?

MR. McRUER: Silk and its products, my lord. I  
mentioned wool first but I went back to silk. I was  
missing it. Now, we take wool and its products.  
In 1929 it is 24.1, in 1930 it is 24.5, 1931 27.7,  
1932, 41.4, 1933 38.1, 1934 35.2, 1935 36.2, 1936 35.2.  
Then, we come to artificial silk and its products.  
In 1929 it is 24.1, 1930 25.6, 1931 31.7, 1932 53.9,  
1933 50.1, 1934 47.9, 1935 47.0, 1936 49.4, and in  
respect to artificial silk it appears that both columns  
are practically the same. For instance, in 1936  
the average rate of duty on an ad valorem basis was  
49.4 and the average rate of duty on total imports  
was 48.5 so that there is practically none that come  
in free, and the same way in 1935; the average rate  
was 47 as against 46.5 on total imports.

THE COMMISSIONER: Yes, it runs all through that way.





MR. McRUER: Now, again these figures are general figures and again I think they should always be approached with caution, any averages of this sort, for any purposes because in tariff fixing great injustice may be done by taking averages as proof that any particular rate ought to prevail. Now, I don't propose to take time just now, at any rate, to deal at any great extent with what my friend has said in his brief. He will, no doubt, make representations in respect to --

MR. HEWARD: Which friend, Mr. McRuér?

MR. McRUER: My friend, Mr. Kellock. He has dealt at length both with the question of the tariffs generally and the tariffs in respect to Japanese goods. In respect to the tariffs generally I think he has approached the subject rather from the point of view of averages and percentages generally than dealing with the specific cases that have been raised. I think it is rather dangerous to arrive at any conclusion in that regard. In section F, paragraph 33 Mr. Kellock deals with one matter, though, that I think I should discuss in view of what we have said this morning.

THE COMMISSIONER: You say section F, paragraph--

MR. McRUER: Paragraph 33. He states:

" As a result of the increase in the rates of duties in 1930, imports of both yarns and fabrics of artificial silk were reduced, but since the 1st of January 1936, these importations have increased. The increase in the rates which took place in 1930





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"did not have the effect of excluding imports of either yarns or fabrics. Any suggestion that the existing spread between the British Preferential rates and the intermediate rates is excessive is negatived by the fact that imports are now and have been in the past made in substantial quantities under the intermediate tariff although necessarily the intention and effect of the revisions made during recent years have been to divert a substantial proportion of importations to British sources. The sources of artificial silk imports during recent years have been"-- and he gives the percentages --

THE COMMISSIONER: But not the volume.

MR. McRUER: But not the volume, and that is where one falls rather into error when you start to deal with these matters of percentage. One is 50% of two, undoubtedly, but two may not have much effect on the trade of the nation. In 1930 artificial silk yarn, 5.4% came in from the United Kingdom and 94.6% from other countries. Now, when we come down to 19--

THE COMMISSIONER: Just a moment, Mr. McRuier; the heading is "yarn". Does that mean only artificial silk yarn?

MR. McRUER: Yes, it is dealing with artificial silk. That is correct, is it not, Mr. Kellock?

MR. KELLOCK: Yes.

MR. McRUER: And in 1931 37.7% from the United Kingdom and 62.3% from other countries. Of course, again there it all becomes a question of volume. 1932, 11.3% from the United Kingdom and 88.7% from other countries.



"did not have the effect of creating a new set of  
other terms of reference. My suggestion on the  
existing ground between the British and American  
rates and the intermediate rates is excessive in  
negative by the fact that the intermediate rates are new and  
been in the past made in substantial quantities  
under the intermediate tariff although necessary  
the intention and effect of the provisions made in  
recent years have been to divert a substantial  
proportion of the intermediate rates to British sources.  
sources of artificiality still remain during recent  
years have been" -- and he gives the reasons for  
THE COMMISSIONER: But not the volume.  
MR. BRIDGES: But not the volume, and that is what  
one fails rather into error when one starts to deal  
with these matters of percentage. The 12 1/2% of two  
percentages, but two may not have much effect on the  
trade of the nation. In 1900 artificiality still  
5.4% came in from the United States and 12.5% from  
other countries. The Commission: But not the volume; the  
being as "young". Now that means only that the  
MR. BRIDGES: Yes, it is dealing with artificiality  
that is correct, is it not, Mr. BRIDGES?  
MR. BRIDGES: Yes.  
MR. BRIDGES: And in 1900 12.5% came from the United States  
and 5.4% from other countries. The Commission: But not the volume; the  
being as "young". Now that means only that the

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THE COMMISSIONER: Have you any figures or anything to say about the volume?

MR. McRUER: Yes, we can get the volume of the yarn.

5 THE COMMISSIONER: I mean, if Mr. Kellock's percentages are right well, there they are. Now, if you want to show that while the percentages are right the volume of importations has decreased considerably then you make another point. We have to see what the  
10 respective volumes are.

MR. McRUER: I have the volume on the fabrics.

THE COMMISSIONER: On the fabrics?

MR. McRUER: Yes.

THE COMMISSIONER: Yes, fabrics are here too.

15 MR. McRUER: But as to the yarns --

MR. KELLOCK: Your last exhibit shows a substantial quantity of imports of artificial silk and its products.

MR. McRUER: We will get the exact volume of the yarn.

20 THE COMMISSIONER: Yes, you might get it and when Mr. Kellock gets to this part of his brief we might make a note of it.

MR. McRUER: Yes, we will have it, but as to the fabrics I have it and here is the story as to the  
25 fabrics. In 1930 the importations from the United Kingdom --

THE COMMISSIONER: Now, this is for the fiscal year ending March 31?

MR. McRUER: Yes, 1930.

30 THE COMMISSIONER: The year 1929-1930 then?



THE COMMISSIONER: Now, you say that the volume of the year  
is not really the same?

MR. MONTGOMERY: Yes, we can get the volume of the year

THE COMMISSIONER: I mean, if the volume is the same

ages are right well, there they are. Now, if you

want to show that while the percentages are right the

volume of importations has decreased considerably then

you make another point. We have to see what the

respective volumes are.

MR. MONTGOMERY: I have the volume on the fabrics.

THE COMMISSIONER: On the fabrics?

MR. MONTGOMERY: Yes.

THE COMMISSIONER: Yes, fabrics are here too.

MR. MONTGOMERY: But as to the year --

MR. MONTGOMERY: Your last exhibit shows a substantial

quantity of imports of artificial silk and its product

MR. MONTGOMERY: We will get the exact volume of the

year.

THE COMMISSIONER: Yes, you might get it and when

Mr. Hellock gets to this part of his brief we might

make a note of it.

MR. MONTGOMERY: Yes, we will have it, but as to the

year I mean it is the same as the year

fabrics. In 1920 the importations from the United

States --

THE COMMISSIONER: Now, this is for the fiscal year

1917-1918.

MR. MONTGOMERY: Yes, 1917-1918.

THE COMMISSIONER: Yes, 1917-1918.

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MR. McRUER: Yes, my lord; importations from the United Kingdom were 4,820,000 pounds and from others 4,678,000 pounds. Now, to begin with my friend's percentages are out there. My friend has 43% from the United Kingdom and 57% from others.

MR. KELLOCK: I was taking the calendar year.

MR. McRUER: Well, if you worked on calendar years then the percentages will be different. Where would you get calendar years?

MR. HALLAM: Trade of Canada.

MR. McRUER: At any rate, for comparative purposes we have the volume --

MR. KELLOCK: What are you reading from?

MR. McRUER: From Trade of Canada. In 1931 from the United Kingdom --

THE COMMISSIONER: That is 1930, then?

MR. McRUER: 1930-1931, 3,441,000 pounds and from others 4,559,000 pounds. In 1932 from the United Kingdom 1,664,000 and from others 1,712,000 so that on the basis of the fiscal years the percentages shown here are away out. That is 51% from others and 49% from the United Kingdom so you see these percentages are not very instructive. Then, when we get down to 1933 it is 1,201,000 and others 372,000. In 1934 1,035,000 and others 336,000. In 1935 809,000 and others 350,000.

MR. HEWARD: 809,000?

MR. McRUER: 809,000 and others 350,000. Now, my friend goes on to make another statement in which I am



MR. HOBBS: Yes, my lord; importations from the

United Kingdom were 4,380,000 pounds and from others

4,378,000 pounds. Now, to begin with my friend's

percentage and the other. My friend has 48% from

the United Kingdom and 52% from others.

MR. HOBBS: I was taking the calendar year.

MR. HOBBS: Well, if you worked on calendar years

then the percentages will be different.

you get calendar years?

MR. HOBBS: Trade of Canada.

MR. HOBBS: At any rate, for comparative purposes

we have the volume --

MR. HOBBS: What are you taking from?

MR. HOBBS: From Trade of Canada. In 1931 from

the United Kingdom --

THE COMMISSIONER: That is 1930, then?

MR. HOBBS: 1930-1931, 3,441,000 pounds and from

others 4,559,000 pounds. In 1932 from the United

Kingdom 1,684,000 and from others 1,712,000 so that

the basis of the fiscal years the percentages shown

here are away out. That is 51% from others and 49%

from the United Kingdom so you see these percentages

are not very instructive. Then, when we get down

to 1930 it is 1,201,000 and others 375,000. In 1931

1,025,000 and others 375,000. In 1932 809,000 and

others 375,000.

MR. HOBBS: Yes, my lord.

MR. HOBBS: Yes, my lord.

MR. HOBBS: Yes, my lord.

afraid he is not justified on the records.

" The result obtained in the case of fabrics during 1930 to 1935 should be noted."

5 I presume that is the reason I took off the statements in reference to fabrics and did not take the yarns as well.

10 "In December 1931 a fixed valuation for duty purposes was placed on the imports of artificial silk fabrics from foreign countries, but not on fabrics from Great Britain. The result was an immediate substantial fall in 1932 and 1933 of the proportion of the import market supplied by foreign imports and a rise in the proportion supplied by the United Kingdom, but despite a continuance of these fixed 15 valuations the trend was reversed in 1934 and only showed a trend the other way in 1935 when there was a surtax placed on Japanese goods. Both the fixed valuation and surtax ceased on the first of January 1938."

20 Now, that might apply to my friend's percentages but when you stick to the figures it doesn't show that.

MR. KELLOCK: If your figures are for a different year there is no use comparing the two.

25 MR. McRUER: If the placing of a fixed valuation was on Japanese goods or anything else that had to do with it it would not make any difference what months of the year; as long as the same thing was in effect the result would be the same. So that the foundation 30 for my friend's conclusion that it was the fixed valuation placed on the artificial silk fabric that was responsible



1934

It is not possible to say.

"The result obtained in the case of fabrics

during 1933 to 1935 should be noted."

I presume that is the reason I took off the statements  
in reference to fabrics and did not take the yarns as

will.

"In December 1931 a fixed valuation for duty pur-  
poses was placed on the imports of artificial silk  
fabrics from foreign countries, but not on fabrics  
from Great Britain. The result was an immediate

substantial fall in 1932 and 1933 of the proportion  
of the import market supplied by foreign imports

and a rise in the proportion supplied by the United  
Kingdom, but despite a continuance of these fixed

valuations the trend was reversed in 1934 and only  
showed a trend the other way in 1935 when there was

a surtax placed on Japanese goods. Now the fixed  
valuation and surtax ceased on the list of Japanese

goods.

Now, that might apply to my friend's percentages but

and you will be the judge of that, is that right?

MR. WILSON: If your figures are for a different

year there is no use comparing the two.

MR. McLELLAN: Is the placing of a fixed valuation on

on Japanese goods or anything else that had to do with

it it would not make any difference what month of

the year; as long as the same thing was in effect the

result would be the same. As to the valuation

on Japanese goods, I am in a position that it was the fixed valuation

placed on the Japanese goods that was removed.

for changing the trend -- it would change the trend in any month of the year. It would not make any difference whether you took the calendar year or fiscal year.

5 THE COMMISSIONER: Are you saying it was not responsible for changing the trend?

MR. McRUER: Because you don't get the same result that my friend shows. Now, what he says is this --

10 " The result obtained in the case of fabrics during 1930 to 1935 should be noted. In December 1931 a fixed valuation for duty purposes was placed on the imports of artificial silk fabrics from foreign countries, but not on fabrics from Great Britain. The result was an immediate substantial fall in 1932 and 1933 of the proportion of the import market supplied by foreign imports and a rise in the proportion supplied by the United Kingdom"--

15 Well, between 1931 and 1932 imports from the United Kingdom fell from 3,441,000 to 1,664,000. It was not an increasing of imports from the United Kingdom.

20 THE COMMISSIONER: No, not an increasing of imports.

MR. McRUER: What my friend's suggestion was there was a change in the trend. You put a fixed valuation on against other countries and therefore you would change the flow of the trade to the United Kingdom and that would increase imports from the United Kingdom rather than decrease them.

25 MR. KELLOCK: That is what the table shows.

MR. McRUER: It doesn't show anything of the kind.

30 THE COMMISSIONER: Take, for instance, your own figures,



for changing the trend -- it would change the trend in any month of the year. It would not make any difference whether you took the calendar year or five

THE COMMISSIONER: Are you saying it was not responsible for changing the trend?

MR. MORRIS: Because you don't get the same result that my friend shows. Now, what he says is this --

"The result obtained in the case of fabrics during 1930 to 1935 should be noted. In December 1931 a fixed valuation for duty purposes was placed on the imports of artificial silk fabrics from foreign countries, but not on fabrics from Great Britain. The result was an immediate substantial fall in 1932 and 1933 of the proportion of the import market supplied by foreign imports and a rise in the proportion supplied by the United Kingdom."

Well, between 1931 and 1932 imports from the United Kingdom fell from 5,421,000 to 1,664,000. It was not an increasing of imports from the United Kingdom.

THE COMMISSIONER: No, not an increasing of imports. MR. MORRIS: What my friend's suggestion was there was a change in the trend. You put a fixed valuation on against other countries and therefore you would show the flow of the trade to the United Kingdom and that would increase imports from the United Kingdom rather than decrease them.

MR. MORRIS: That is what the table shows. MR. MORRIS: It doesn't show anything of the kind. THE COMMISSIONER: Take, for instance, your own figure

Mr. McRuer, for the fiscal year 1932-1933. Imports from Great Britain then were 1,201,000 pounds and from all others 372,000 pounds. Roughly speaking there were four times as many imports from Great Britain as from all others.

MR. McRUER: Yes; still the imports from Great Britain were only about one-third of what they were before the fixed valuation was put on.

THE COMMISSIONER: Certainly as far as the volume is concerned you are right. The fall is very great.

MR. McRUER: And it keeps right on falling till it gets down to 809,000.

THE COMMISSIONER: Did you say 809,000? I took down 909,000.

MR. McRUER: 809,000; so that the imports from Great Britain fell from 3,441,000 in 1931 to 809,000 in 1935.

THE COMMISSIONER: That is quite right.

MR. KELLOCK: There is nothing in my statement about that. I am only talking about the proportion supplied--

MR. McRUER: I know, but there again all I am saying is you cannot find anything in regard to the consumers on proportions of that sort when you find that the competition from abroad was diminishing all the time. Then, the next item seems to me to be entirely wrong, the last part of the paragraph.

-- but despite a continuance of these fixed valuations the trend was reversed in 1934"-- which isn't true.

MR. KELLOCK: It is on that table.



Mr. Tolson, for the fiscal year 1933-1934, from Great Britain there were 1,261,000 pounds and from all others 878,000 pounds. Possibly speaking there were four times as many imports from Great Britain as from all others.

MR. TOLSON: Yes; still the imports from Great Britain were only about one-third of what they were before the fixed valuation was put on.

THE CHAIRMAN: Certainly as far as the volume concerned you are right. The bill is very good.

MR. TOLSON: And it keeps right on falling till it gets down to 800,000.

THE CHAIRMAN: And you say 800,000? I took down

800,000.

MR. TOLSON: 800,000; so that the imports from Great

Britain fell from 2,441,000 in 1931 to 800,000 in

MR. TOLSON: There is nothing in my statement that I am only talking about the proportion of that

MR. TOLSON: I know, but I am again all I am saying is you cannot find anything in regard to the country

on questions of that sort when you find that the competition from abroad was declining all the time

the last part of the war.

But despite a considerable increase in 1931-1932 the bill was reversed in 1933-1934 which is

MR. McRUER: It isn't true on actual importations.

MR. KELLOCK: It is true on my table.

MR. McRUER: I don't care anything about your table.

MR. KELLOCK: My friend has compared --

5 THE COMMISSIONER: Yes, I know, I am listening to all of it. You are talking of one thing and he is talking of another.

MR. KELLOCK: Yes, if my friend wants to compare on that basis --

10 MR. McRUER: On actual importations, pounds of silk fabric, and what is what we are concerned with, not percentages or figures.

15 "-- the trend was reversed in 1934 and only showed a trend the other way in 1935 when there was a surtax placed on Japanese goods",

Now, that is put in for some purpose in this brief, that the surtax was beneficial to turn the channel of trade back into purchases from Great Britain. In the first place importations from others in 1933 amounted to 372,000 and in 1934 336,000 and in 1935 350,000.

20 THE COMMISSIONER: When was this surtax put on?

MR. McRUER: The surtax was put on on July 20, 1935.

THE COMMISSIONER: I thought so.

25 MR. McRUER: So I don't see how it could affect this, but we come to the fact that it does not make a particle of difference how the stream is flowing if it is only a trickle, anyway.

30 MR. KELLOCK: If I might point out, my friend's last figure gave a rise in 1935 and the surtax was not on there at all.



MR. MONTGOMERY: It isn't true on actual importations.

MR. KILLICK: It is true on my table.

MR. MONTGOMERY: I don't care anything about your table.

MR. KILLICK: My friend has compared --

THE COMMISSIONER: Yes, I know, I am listening to all

of it. You are talking of one thing and he is talking

of another.

MR. KILLICK: Yes, if my friend wants to compare on

my table --

MR. MONTGOMERY: On actual importations, because of all

tables, and what is what we are concerned with, not

percentages or figures.

"-- the trend was reversed in 1934 and only showed

trend the other way in 1935 when there was a further

placed on Japanese goods."

Now, that is put in for some purpose in this brief,

that the tariff was beneficial to turn the balance of

trade back into purchases from Great Britain. In

first place importations from others in 1933 amounted

to 375,000 and in 1934 385,000 and in 1935 350,000.

THE COMMISSIONER: When was this tariff put on?

MR. MONTGOMERY: The tariff was put on on July 20, 1935.

THE COMMISSIONER: I thought so.

MR. MONTGOMERY: So I don't see how it could affect the

but we come to the fact that it does not make a party

an alternative but the fact is that it is in the

table, which

MR. KILLICK: If I might point out, my friend's

last figure gave a rise in 1935 and the tariff was

in 1935 as well.

MR. McRUER: That is exactly what I said. I said that, as plainly as language could say it.

MR. KELLOCK: What is the use of comparing two things that are not comparable?

5 THE COMMISSIONER: What Mr. Kellock says is that from July, 1935 down to the end of that year -- that is what he must mean,--

MR. McRUER: We will get the total imports.

10 THE COMMISSIONER: Pardon me a moment; when the surtax on Japanese goods was in force that the trend towards British importations increased?

MR. McRUER: Yes.

THE COMMISSIONER: Your figures do not cover that period.

15 MR. McRUER: I am just trying to see if I cannot get that right now so we can bring it right down to date and see what it amounts to, at any rate. Have you got the totals for 1936, Mr. Kellock?

20 MR. KELLOCK: I probably have some place; I haven't them here.

MR. McRUER: Alright.

25 THE COMMISSIONER: Do you mean the calendar year because you can only examine the accuracy of Mr. Kellock's statement by finding out what are the importations between July and December, 1935. That is the only period.

30 MR. McRUER: I will try and get them by month. Then we will have it exactly because here is a statement that is made that one would say is intended to indicate that the surtax was beneficial in that it changed the



(Sitting)

that, as plainly as language could say it.

July, 1955 down to the end of that year -- that is

what he must mean.--

MR. McNEIL: We will get the total imports.

THE COMMISSIONER: That is a moment; when the  
surplus on Japanese goods was in force that the trend  
towards British imports increased?

THE COMMISSIONER: Your figures do not cover that

MR. McNEIL: I am just trying to see if I cannot get  
that right now so we can bring it right down to date  
and see what it amounts to, at any rate.

not the totals for 1956, Mr. McNeil?

MR. McNEIL: I probably have some place; I haven't

them here.

MR. McNEIL: All right.

THE COMMISSIONER: Do you mean the calendar year

McNeil's statement by lining out what are the

MR. McNEIL: I will try and get them by month. If

that the surplus was beneficial in that it changed

flow there of trade from Japan to Great Britain, and the stream came in then from Great Britain, but whether it was flowing at all or not is what we want to find out.

5 - MR. KELLOCK: I can relieve my friend's anxiety about that a little. The point, as I understand it, is it is difficult to keep Japanese importations out no matter how high you put the duty. It takes a very high duty to keep them out.

10 MR. McRUER: That is your contention, but we haven't had much evidence. I agree with you it takes a high one but I think we have got it.

THE COMMISSIONER: As long as you can have that in time for Mr. Kellock's argument --

15 MR. McRUER: Yes, I will get those figures. I will try and get them for calendar years and fiscal years and bring them down to the end of 1936.

THE COMMISSIONER: Yes, if you can do that we will know then.

20 MR. McRUER: On both yarns and fabrics.

Now, in respect to what my friend has said in reference to the tariffs in respect to Japan I haven't much to say. I have covered it pretty well and I would say only this that most of my friend's brief is taken  
25 up in showing what Japan is said to have done to other countries, not what Japan has done to Canadian industry, and that most of the authorities in regard to all these tariff matters that are quoted by my friend are briefs that were prepared by Mr. Hallam at  
30 different times and filed. I am not saying they



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the stream came in then from Great Britain, but  
whether it was flowing at all or not is what we want  
to find out.

about that a little. The point, as I understand it,  
is it is difficult to keep Japanese importations out  
no matter how high you put the duty. It takes a  
very high duty to keep them out.

MR. MORRIS: That is your contention, but we haven't  
had much evidence. I agree with you it takes a high  
one but I think we have got it.

THE COMMISSIONER: As long as you can have that in  
time for Mr. Hallowell's argument --

MR. MORRIS: Yes, I will give him time. I will  
try and get them for calendar years and fiscal years  
and bring them down to the end of 1938.

MR. MORRIS: Yes, if you can do that we will  
be very glad.

MR. MORRIS: On both years and calendar.  
Now, in respect to what my friend has said in re-  
spect to the tariff in respect to Japan I haven't  
to say. I have covered it pretty well and I would  
say only this that most of my friend's idea is  
up in showing what Japan is said to have done to  
countries, not what Japan has done to Canadian in-  
try, and that most of the authorities in regard to  
all these matters would say that Japan has done  
nothing to Canada. I am not saying they

should not have any more weight or any less weight on that account, but it is not in respect to evidence that has been called from anywhere in the industry showing this result.

5 Now, there is one thing in my friend's brief that I do challenge most seriously on page 9 of section G, and that is in respect to costs. My friend makes this statement in regard to costs, and it is most important.

10 THE COMMISSIONER: What paragraph?

MR. McRUER: Paragraph 20.

15 " Mr. Hooper had seen some Canadian mill costs on fabrics corresponding to cheap Japanese taffetas, plain and brocaded, which, in his opinion, were not accurate, which led him to believe that possibly the Canadian mills were demanding too high a price. This is surmise only. On the contrary, Mr. Howson in his evidence said that he was unable to criticize a single cost put forward by any Canadian mill."

20 (page 14259 follows)

25

30



...and it is not in respect to evidence  
on this account, but it is not in respect to evidence  
showing this result.

Now, there is one thing in my friend's brief that  
I do challenge most seriously on page 2 of section 2,  
and that is in respect to costs. My friend makes  
this statement in regard to costs, and it is most  
important.

...the Canadian mills were demanding too high a price  
plain and proceeded, which, in his opinion, were not  
accurate, which led him to believe that possibly  
the Canadian mills were demanding too high a price  
This is untrue only. On the contrary, Mr. Howe  
in his evidence said that he was unable to estimate  
a single cost put forward by any Canadian mill.

(page 10 of 11)

Now, I do not know how my friend can make a statement of that sort in the light of Mr. Howson's evidence. Mr. Howson's evidence was quite otherwise and that was that the cost of the Canadian mills were not such on which you could base any conclusion at all.

THE COMMISSIONER: Mr. Kellock refers to the page of the evidence, at page---

MR. McRUER: At page 12949 here is what Mr. Howson says. I go back a little to line 9:

"Q. Whether you charge it to profit and loss, which is the result of accumulation of past profits or whether you charge it in your actual cost for the year, the degree to which the actual costs will approximate or coincide with the standard costs, does depend on volume of production?" A. Yes.

Q. And as I say if your volume falls below the volume which was used in fixing your standard costs then the actual cost is going to prove to be higher, no matter where you charge it, is not that right?

A. Yes.

Q. Now, are you suggesting then in the case of any company that we are dealing with here that their standard cost which they have used to show the costs of any particular fabric which has been put in here as an exhibit, is so far away from actual, if actual cost of that fabric could be ascertained, that it should not be relied on? A. I have been



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Now, I do not know how my friend can make a mistake-  
and if that is the case, I am sure that the evidence  
Mr. Hanson's evidence was quite otherwise and that was  
that the cost of the Canadian mills were not such on  
which you could base any conclusion at all.  
THE COMMISSIONER: Mr. Kellock refers to the page  
of the evidence, at page---  
MR. HANSON: At page 12849 there is what Mr. Hanson  
says. I go back a little to line 9:  
"Whether you charge it to profit and loss, which  
is the result of accumulation of past profits  
or whether you charge it in your actual cost  
for the year, the degree to which the actual  
costs will approximate or coincide with the  
standard costs, does depend on volume of  
production?"  
A. Yes.  
Q. And as I say if your volume falls below the  
volume which was used in fixing your standard cost,  
then the actual cost is going to prove to be higher  
no matter where you charge it, is not that right?  
A. Yes.  
Q. Now, are you suggesting then in the case of  
any company that we are dealing with here that the  
standard cost which they have used to show the cost  
of any particular fabric which has been put in  
that exhibit, is so far away from actual,  
if actual cost of that fabric could be ascertained  
that it would be so far away?

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Unable to make any calculation at all to check those individual costs with the actual costs of the company or any company which has provided the samples."

5 And Mr. Howson went on at different times to explain that they could not tell them themselves, that the Dominion Textile was the only company that attempted to make checks on their costs and they made a sort of sample check-back to see how the standard costs tied in.

10 Now, "Q. Well then, an actual cost does not exist at any one time for any one fabric, does it? It only exists in theory because you cannot find it? A. Yes, that is quite true.

15 Q. Now, in the case of the Penman Company where you set out the table in Exhibit 969 between the Standard costs which the Company set up and the actual costs, I notice that there are only two years where the standard costs appear to have been higher than the actual and that is in the years 1932 and 1933, is that right? A. Yes."

20 And then they go on further. Now, how my friend can just conclude that Mr. Howson in any sense made a statement that would imply that he was unable to criticize a single cost put forward by the Canadian Mills - well, when he said there was not such a thing--

25 MR. KELLOCK: He said he could not criticize them. That is exactly what he said.

30 MR. McRUER: No, he did not say that. I did not



Q. Now, in the case of the Northern Company where you set out the table in Exhibit 282 between the standard costs which the Company set up and the actual costs, I notice that there are only two years shown and that is in the years 1927 and 1928, is that right?

A. Yes.

Q. Now, how my friend and then they go on further.

A. Just concludes that Mr. Hanson in any sense made a statement that would imply that he was unable to criticize a single cost put forward by the Canadian Mills - well, when he said there was not such a thing.

MR. KELLER: He said he could not criticize them.

That is exactly what he said.

MR. HANSON: No, he did not say that. I did.

think my friend would attempt to support that.

MR. KELLOCK: Oh, I do fully.

MR. McRUER: That Mr. Howson was not able to criticize the costs?

5

MR. KELLOCK: Yes, that is exactly what he said.

MR. McRUER: How did he say that? Let us make sure.

10

"Q. Now, are you suggesting then in the case of any company that we are dealing with here that their standard cost which they have used to show the costs of any particular fabric which has been put in here....."

15

MR. KELLOCK: Which they have used, is not it?

20

MR. McRUER: "....which they have used to show the costs of any particular fabric which has been put in here as an exhibit, is so far away from actual, if actual cost of that fabric could be ascertained, that it should not be relied on?

25

A. I have been unable to make any calculation at all to check those individual costs with the actual costs of the company or any company which has provided the samples."

30

And my friend knows perfectly well Mr. Howson explained at different times the reason he could not make it was because they did not have the record. Now, to say that he made no criticism, I think it is very definite criticism of them and I have more references to make of that when I come to deal in my brief with



think my friend would attempt to support that.

MR. KELLOCK: Oh, I do fully.

MR. MORRIS: That Mr. Ross was not able to

criticize the coats?

MR. KELLOCK: Yes, that is exactly what he said.

MR. MORRIS: How did he say that? Let us make

"Now, are you suggesting that in the case of a

company that we are dealing with here that their

standard coat which they have used to show the

costs of any particular fabric which has been

put in here....."

MR. KELLOCK: Which they have used, is not it?

MR. MORRIS: ".....which they have used to show

the costs of any particular fabric which has

been put in here as an exhibit, is so far away

from actual, in actual cost of that fabric could

be ascertained, that it should not be relied on?

A. I have been unable to make any calculation as

all to check those individual coats with the

actual costs of the company or any company which

has provided the samples."

and my friend knows perfectly well Mr. Ross explained

at different times the reason he could not make it

was because they did not have the records. Now,

if my friend would be mistaken, I think it is very

probable that he would be mistaken, I think it is very

probable that he would be mistaken, I think it is very

costs.

THE COMMISSIONER: Before you leave Japanese goods there is something I would like to have you clear up.

You say:

5 "In Japan, manufactured goods are subjected to a consumption tax of 10%. This tax, however, is not levied on goods exported."

You say;

10 "It is, however, included in estimating the value of goods imported into Canada for regular duty?"

That is what you say. That consumption tax is excise tax?

15 MR. McRUER: Yes.

THE COMMISSIONER: But it is taken into consideration by Canada in calculating the duty?

MR. McRUER: Yes, that is correct.

20 THE COMMISSIONER: What do you say after that?

MR. McRUER: "The reason that the excise taxes imposed in British and foreign countries has been disregarded....."

25 THE COMMISSIONER: Well, you say they have not?

MR. McRUER: They have disregarded in the United States after 1933.

THE COMMISSIONER: But not in the case of Japan?

MR. McRUER: Not in the case of Japan.

30 THE COMMISSIONER: Now, I understand you.

MR. HOOPER: They have been regarded for special



THE COMMISSIONER: Before you leave Japanese goods there is something I would like to have you clear up.  
You say:

"In Japan, manufactured goods are subjected to a consumption tax of 10%. This tax, however, is not levied on goods exported."  
You say:

"It is, however, included in estimating the value of goods imported into Canada for regular duty?"

That is what you say. That consumption tax is exact.

MR. MORRIS: Yes.  
THE COMMISSIONER: But it is taken into consideration by Canada in calculating the duty?  
MR. MORRIS: Yes, that is correct.

THE COMMISSIONER: What do you say after that?  
MR. MORRIS: "The reason that the excise taxes imposed in British and foreign countries has been disregarded....."

THE COMMISSIONER: Well, you say they have not?  
MR. MORRIS: They have disregarded in the United States since 1933.

THE COMMISSIONER: But not in the case of Japan?  
MR. MORRIS: Not in the case of Japan.  
THE COMMISSIONER: Now, I understand you.  
MR. MORRIS: They have been regarded for special

duty purposes. "The reason that the excise tax is imposed in British and foreign countries has been disregarded in estimating the value of goods for special duty....."

5

THE COMMISSIONER: Yes, it is only in relation to special duties that was disregarded.

MR. HOOPER: Yes.

10

MR. McRUER: They were disregarded in regard to the consumption tax after 1934.

MR. HOOPER: By Order in Council.

MR. McRUER: But they were, nevertheless?

MR. HOOPER: Yes.

15

MR. McRUER: I am right in respect to that.

THE COMMISSIONER: After what time? You say that this Japanese consumption tax was disregarded after a certain time.

MR. HOOPER: For regular duties, my lord?

20

THE COMMISSIONER: No, for special duties.

MR. HOOPER: That has always been disregarded - that is, after this section came into force.

25

MR. McRUER: When they were under the General Tariff it was not disregarded and then after that time it was disregarded, after the order of the Governor in Council.

THE COMMISSIONER: When were these provisions of the Customs Act put in this shape?

30

MR. KELLOCK: In 1934, Chapter 48, Section 36-A.

THE COMMISSIONER: That has been their state since 1934?



...The reason that the excise tax  
is imposed in British and foreign countries has been  
disregarded in estimating the value of goods for  
special duty...."

THE COMMISSIONER: Yes, it is only in relation  
to special duties that was disregarded.

MR. HODGINS: Yes.

MR. MORRIS: They were disregarded in regard to  
the consumption tax after 1934.

MR. HODGINS: By order in Council.

MR. MORRIS: But they were, nevertheless?

MR. HODGINS: Yes.

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THE COMMISSIONER: After what time? You say that  
this Japanese consumption tax was disregarded after  
a certain time.

MR. MORRIS: For regular duties, my lord?

THE COMMISSIONER: No, for special duties.

MR. MORRIS: That has always been disregarded -  
that is, after this section came into force.

MR. MORRIS: When they were under the General  
Tariff? It was not disregarded and then after that time  
it was disregarded, after the order of the Governor  
in Council.

THE COMMISSIONER: When were these provisions  
of the Customs Act put in this shape?

MR. MORRIS: In 1934, I think, under the  
Customs Act, and the Customs Act.

5  
10  
15  
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MR. KELLOCK: I thought you meant the Section about disregarding excise.

THE COMMISSIONER: No, the four sections that Mr. McRuer quotes here.

5 MR. HOOPER: That is the reason that they cannot be deducted for regular duty purposes unless the Governor in Council so orders under 36 (a).

THE COMMISSIONER: And that has always been the Act?

10 MR. HOOPER: That has been for years. It goes back a great number of years.

MR. McRUER: Now, one other matter too, I will clear up. I want to clean up a matter which was raised yesterday, my lord.

15 THE COMMISSIONER: Whereabouts in your Factum would that be?

MR. McRUER: It is in reference to the imports of artificial silk yarns, it would be at page 89.

20 Your lordship remembers that we mentioned the reductions that were made in 1936 when the item was split between the cellulose acetate yarns and the other yarns.

THE COMMISSIONER: B The viscose?

25 MR. McRUER: The viscose. Your Lordship wished to know what advantage was taken of the change after the acetate yarns were allowed in at the lower rates from Great Britain, the 5%. The importations of acetate, single ply, for the 9 months ended 31st  
30 December, 1936, amounted to 181,428 pounds.



MR. KELLER: I thought you meant the section

about the section.

MR. KELLER: No, the first section.

MR. KELLER: That is the reason that they can

be connected for the last day purposes unless the

government in Council so orders under 33 (a).

MR. KELLER: That has always been the

case.

MR. KELLER: That has been for years. It does

a great number of years.

MR. KELLER: No, one other matter too, I will

up. I want to clear up a matter which has been

up.

MR. KELLER: That is in reference to the imports

of artificial silk yarns, it would be at page 33.

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of artificial silk yarns, it would be at page 33.

THE COMMISSIONER: That is for the nine months,  
you say?

MR. McRUER: Yes, that is from the United Kingdom.

THE COMMISSIONER: How do you describe them - acetate  
5 single ply?

MR. McRUER: Yes, single ply, my lord.

THE COMMISSIONER: How does that compare with the  
previous conditions?

10 MR. McRUER: I will just give your lordship  
the next figure. The total importations were  
181,820 pounds. About 400 pounds came from other  
places.

15 THE COMMISSIONER: Nearly all from the United  
Kingdom?

MR. McRUER: Yes, my lord. Now, we cannot get  
the importations of acetate yarns prior to that  
because the tariff item was not split. Have we got  
20 the total importations of yarns altogether?

THE COMMISSIONER: That is, of artificial silk yarns?

MR. McRUER: Yes.

THE COMMISSIONER: Under the old item.

25 MR. McRUER: I will give your lordship this item -  
viscose yarns from the United Kingdom, for the same  
period, 9 months ended 31st December, 1936, singles,  
amounted to 459,029 pounds out of total importations  
of 650,937 pounds. Now, if we just had the  
30 importations for the previous year, 31st March, 1936,  
total importations of artificial silk yarns, it would



THE COMMISSIONER: That is for the nine months,

MR. McNEIL: Yes, that is from the United Kingdom.

THE COMMISSIONER: How do you describe them - some

single ply?

THE COMMISSIONER: How does that compare with the

previous conditions?

MR. McNEIL: I will just give your lordship

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181,820 pounds. About 400 pounds came from other

THE COMMISSIONER: Nearly all from the United

Kingdom?

MR. McNEIL: Yes, my lord. Now, we cannot get

the importations of acetate yarns prior to that

because the tariff item was not split. Have we got

the total importations of yarns altogether?

THE COMMISSIONER: That is, of artificial silk yarn?

MR. McNEIL: Yes.

THE COMMISSIONER: Under the old item,

MR. McNEIL: I will give your lordship this item

viscose yarns from the United Kingdom, for the same

period, 9 months ended 31st December, 1935, singles,

amounted to 452,089 pounds out of total importation

of 650,337 pounds. Now, if we just had the

importations of the artificial silk yarn, 1935

total importations of artificial silk yarn, 1935

be the best information we could get.

MR. HOOPER: I have the calendar year 1934 - 35.

This goes right to the end of December, 1935.

MR. McRUER: Can you give us the last 9 months of  
1935?

MR. HOOPER: No.

MR. McRUER: Does it give the whole year?

MR. HOOPER: Gives the whole year of 1935.

MR. McRUER: Let us have it.

MR. HOOPER: 621,595.

MR. McRUER: For the whole of the year 1935,  
that is the calendar year, the total importations of  
artificial yarn, single ply, 621,595 pounds. For  
the nine months just past ---

MR. HOOPER: 1,009,996 pounds for the year 1935.  
I gave the value before.

THE COMMISSIONER: That is for the calendar year  
1935?

MR. HOOPER: Yes.

MR. McRUER: Have you the figure there from Great  
Britain for 1935?

MR. HOOPER: 496,516.

THE COMMISSIONER: Well, there was an increase.  
In the 9 months of 1936 you gave me 634,458 pounds  
as against 496,516 for the 12 months of 1935.

MR. DIXON: Before any conclusions are drawn  
from these figures it might be well to point out  
there was a strike during 1936 and Courtaulds (Canada)



be the best information we could get.

Mr. Dixon: I have the calendar year 1934 - 35.

This goes right to the end of December, 1933.

Mr. Dixon: Can you give us the last 3 months of

1933?

Mr. Dixon: No.

Mr. Dixon: Let us have the year of 1933.

Mr. Dixon: Gives the whole year of 1933.

Mr. Dixon: Let us have it.

Mr. Dixon: Yes.

Mr. Dixon: For the whole of the year 1933.

That is the calendar year, the total report of the

calendar year, which is, 1933, 1934.

The nine months past year ---

Mr. Dixon: 1,000,000 pounds for the year 1933.

I gave the value before.

THE COMMISSIONER: That is for the calendar year

1933.

Mr. Dixon: Yes.

Mr. Dixon: Have you the figure for the year 1934?

Without the year.

Mr. Dixon: Yes.

THE COMMISSIONER: Yes.

In the 3 months of 1934 you have no 1934, 1935, 1936.

as against 1933, 1934 for the 12 months of 1933.

Mr. Dixon: Before any calculations are made

the value of the year is 1933, 1934, 1935, 1936.

There was a strike during 1933 and 1934.

brought in 300,000 pounds of this viscose to satisfy their own customers. So that it should not be taken as general proof of anything.

THE COMMISSIONER: From Great Britain?

MR. DIXON: Yes, my lord. I got that on the telephone this morning.

MR. McRUER: That is quite right. Of the viscose yarns 303,311 pounds were imported by Courtaulds, my lord, and 75,763 pounds of the acetate imported by Courtaulds. Courtaulds evidently imported the acetate yarns or 41% of the viscose was imported by Courtaulds and 39% of the acetate. I don't know why they import the acetate.

MR. DIXON: We sell acetate where a customer wants to buy it, that is all. In England the parent company, Courtaulds, makes acetate yarns and is in the business of selling it.

MR. McRUER: Your Lordship mentioned this morning that you would like to have the Order-in-Council that was passed authorizing the fixing of the valuation on the wool jersey cloth. Your lordship asked if there was any reason given for it and so we have secured a copy of the recommendations to the Governor in Council and a copy of the Order in Council. The recommendation is dated the 24th of May, 1932 and reads as follows:

"The undersigned, Minister of National Revenue,



brought in 300,000 pounds of this viscose to satisfy  
their own customers. No that is what it should be taken  
as general proof of anything.  
THE COMMISSIONER: From what British?  
MR. DIXON: Yes, my lord. I got that on the  
telephone this morning.  
MR. MONTAGU: That is quite right. Of the viscose  
years 300,000 pounds were imported by Comptons,  
my lord, and 70,000 pounds of the acetate imported  
by Comptons. Comptons evidently imported  
the acetate years or six of the viscose was imported  
by Comptons and six of the acetate. I don't know  
why they import the acetate.  
MR. DIXON: I sell acetate there a customer  
wants to buy it, that is all. In England the  
great company, Comptons, makes acetate years and  
is in the business of selling it.  
MR. MONTAGU: Your Lordship mentioned this  
morning that you would like to have the Order-in-Council  
that was passed authorizing the fixing of the value  
of the wool (very slight). The Comptons  
if there was any reason given for it and so we have  
in Council and a copy of the Order in Council. The  
Commissioner is dated the 24th of May, 1932 and

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has the honour to report that Wool Jersey Cloth and Cotton Stockinette are being imported into Canada under such conditions as prejudicially or injuriously to affect the interests of Canadian producers thereof.

The undersigned has, therefore, the honour to recommend that, under the authority of Section 43 of the Customs Act, Chapter 42, R.S.C. 1927, as amended by Section 4 of Chapter 2 of the Statutes of 1930, Second Session, he be authorized to fix the value for duty of Wool Jersey Cloth and Cotton Stockinette, and notwithstanding any other provisions of the Customs Act, the value so fixed shall be deemed to be the fair market value thereof."

And the Order in Council that was passed - and this has some importance in connection with the matter we discussed about publicity - is as follows:

"Whereas the Minister of National Revenue reports that Wool Jersey Cloth and Cotton Stockinette are being imported into Canada under such conditions as prejudicially or injuriously to affect the interests of Canadian producers thereof;

Therefore his Excellency the Governor General in Council, on the recommendation of the Minister of National Revenue and under the authority of Section 43 of the Customs Act, Chapter 42, R.S.C. 1927, as amended by Section 4 of Chapter 2





of the Statutes of 1930, Second Session, is hereby pleased to authorize the Minister of National Revenue to fix the value for duty of Wool Jersey Cloth and Cotton Stockinette, the value so fixed to be deemed to be the fair market value thereof, notwithstanding any other provisions of the Customs Act."

THE COMMISSIONER: That means somebody must have convinced the Minister of National Revenue this industry was suffering---

MR. McRUER: "being imported into Canada under such conditions as prejudicially or injuriously to affect the interests of Canadian producers thereof."

THE COMMISSIONER: That is what I say, somebody must have convinced the Minister of this.

MR. McRUER: Here is the Order in Council and that is what is published no doubt in Canada Gazette but it does not say a word about the rates at which they are to be fixed. I must withdraw that.

MR. KELLOCK: The Statute provides that ---

MR. McRUER: The action taken by the Governor in Council, even if it has not fixed the value, the value did not go before Council.

THE COMMISSIONER: Just authorized the Minister to fix the value.

MR. McRUER: Yes. It is just a question of principle that is involved.

THE COMMISSIONER: You can file those. Put them together.



of the 22 cases of 1936, second session, in  
 heretofore proposed to authorize the Minister of  
 National Revenue to fix the value for duty of wool  
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MR. MONTAGUE: The action taken by the Government  
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 value did not go before Council.

MR. MONTAGUE: That authorized the Minister  
 to fix the value.  
 MR. MONTAGUE: Yes. It is just a question of price  
 that is involved.

MR. MONTAGUE: You see that is the point.

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EXHIBIT 1325: Copy of recommendation to the Governor in Council, dated 24th May, 1932, and copy of Order in Council re Wool Jersey Cloth and Cotton Stockinette.

5       MR. McRUER: One other matter I want to clear up before I proceed to another section of my brief and that is the matter of the law in regard to authorizing importations under the British Preferential Tariff,

THE COMMISSIONER: The 10% question.

10       MR. McRUER: Section 5 of the Customs Tariff Act provides:

15       "(1) The importer of goods entitled to the benefits of the British Preferential Tariff shall be entitled to a discount of ten per centum on the amount of duty computed under such tariff, when such goods are conveyed without transshipment from a port of a country enjoying the benefits of the British Preferential Tariff into a  
20       sea, lake or river port of Canada.

25       (2) The Goods entitled to the benefits of the British Preferential Tariff shall be entitled to the discount authorized by this section, when shipped on a through bill of lading consigned to a consignee in a specified port in Canada, when such goods are transferred at a port in a British possession and conveyed without further transshipment into a sea, lake or river  
30       port of Canada."

Now, that is that if there is a through bill of lading



Copy of recommendation to the  
Government in Council, dated 24th  
May, 1922, and copy of Order in  
Council re wool jersey cloth and  
other articles.

QUESTIONS

MR. McNEIL: One other matter I want to clear up  
before I proceed to another section of my order and  
that is the matter of the law in regard to a restriction  
impositions under the British Preferential Tariff.

THE COMMISSIONER: The 1st question.

MR. McNEIL: Section 5 of the Customs Tariff Act

"(1) The importer of goods entitled to the

benefits of the British Preferential Tariff shall

be entitled to a discount of ten per centum

on the amount of duty computed under such tariff

when such goods are conveyed without transshipment

from a port of a country enjoying the benefits

of the British Preferential Tariff into a

sea, lake or river port of Canada.

(2) The goods entitled to the benefits

of the British Preferential Tariff shall be subject

to the discount authorized by this section,

and shall be subject to the same

as goods imported in a specified port in

Canada, when such goods are transferred at a port

in a specified port in Canada to a specified port in

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in a specified port in Canada to a specified port in

Canada, when such goods are transferred at a port

they may be transhipped at a British Port once,  
there may be one transshipment but if they were, we  
will say, coming from Australia ---

5 THE COMMISSIONER: Mayb e transhipped at another  
British Port?

10 MR. McRUER: Yes, but if they are coming from  
Australia a transshipment made at British Columbia,  
they could not be transhipped again, we will say, at  
Montreal or transhipped again in the West Indies  
before coming to Montreal.

MR. KELLOCK: And they could not be transhipped  
at San Francisco.

15 MR. McRUER: No, they could not be transhipped  
at any foreign port, quite true.

THE COMMISSIONER: I wonder why they did not put  
those two sections into one.

20 MR. McRUER: Well then, when we come to Section  
3, let us see what it says. You go from 5 to find  
what goods are entitled to the benefit of the British  
Preferential Tariff and we go to 3 to find out  
goods which are entitled to entry under the British  
Preferential Tariff:

25 "Subject to the provisions of this Act  
and of the Customs Act, there shall be levied,  
collected and paid upon all goods enumerated,  
or referred to as not enumerated, in schedule  
30 A, to this Act, when such goods are imported  
into Canada or taken out of warehouse for



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THE CHAIRMAN: May a transshipment at another  
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goods which are entitled to entry under the British  
Preferential Tariff:

--- to the provisions of this Act  
and of the Customs Act, there shall be levied,  
collected and paid upon all goods enumerated,  
or referred to as not enumerated, in schedule  
1, of this Act, such duties and charges as are imposed

consumption therein, the several rates of duties of Customs, if any, set opposite to each item respectively or charged on goods as not enumerated, in the column of the Tariff applicable to the goods, subject to the following conditions, viz:

(a) the rates of customs duties, if any, set forth in column (1), "British Preferential Tariff," shall apply to goods the produce or manufacture of the following British countries when conveyed without transshipment from a port of any British country enjoying the benefit of the British Preferential Tariff into a sea, lake or river port of Canada."

To begin with, they must be conveyed without transshipment from a port of any British Country enjoying the benefits of the British Preferential Tariff, into a sea, lake, or river port of Canada.

THE COMMISSIONER: Otherwise they do not come within the Preferential tariff at all?

MR. McRUER: No. After the enumeration, my lord, of the different countries enjoying the British Preferential Tariff we come to the proviso:

"Provided, however, that goods entitled to the benefits of the British Preferential Tariff shall be accorded such benefits when such goods are shipped on a through bill of lading consigned to a consignee in a specified port in Canada



consumption therein, the several rates of duties  
of Customs, if any, set opposite to each item  
respectively or charged on goods as not enumerated  
in the column of the tariff applicable to the  
goods, subject to the following conditions,

via:

(c) the rates of customs duties, if any, set

opposite to each item, shall apply to goods the produce or

manufacture of the following British countries  
when conveyed without transshipment from a port  
of any British country enjoying the benefits  
of the British preferential tariff into a port,

namely, the United Kingdom,

to begin with, they must be conveyed without trans-  
shipment from a port of any British country enjoying  
the benefits of the British preferential tariff,

into a sea, lake, or river port of Canada.

THE COMMISSIONER: Otherwise they do not come

within the scope of the tariff.

MR. MORTIMER: No. After the enumeration, my lord,

of the countries enjoying the British

preferential tariff we come to the proviso:

"provided, however, that goods entitled

to the benefits of the British preferential tariff

shall be conveyed from a port of any British country

when such goods are transferred at a port in a British possession, and conveyed without further transshipment into a sea, lake or river port of Canada."

5 THE COMMISSIONER: They always get the 10% or they get nothing.

MR. McRUER: Yes, they get the 10% or they get nothing.

10 THE COMMISSIONER: That is certainly very bad legislation.

MR. KELLOCK: In other words, there is no British Preferential Rate apart from the 10%.

15 THE COMMISSIONER: Well, the statute though should be fixed up. That is very confusing.

MR. McRUER: You go to one section and you find that you get 10% on British Preferential under such circumstances and you find the circumstances that you get it must be British Preferential or nothing else. Of course, as Mr. Hooper points out quite rightly, that is all subject to the qualifications that you do not get the 10% unless the duty is over 15%. So to say you get it or nothing is not correct.

25 THE COMMISSIONER: No, shortly, it should be put this way: The British Preferential Rate is so much, it is to be accorded when goods shipped from one British Port to another with one transshipment and then when the duty is over 15% there is a 10% discount. That would be putting the thing shortly.

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when such goods are transferred as a gift in  
a British possession, and conveyed without taxation  
relationship into a new, then no duty is payable

THE COMMISSIONER: They always get the 10% on duty  
get nothing.

MR. MEMOR: Yes, they get the 10% on duty get  
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THE COMMISSIONER: That is certainly very odd  
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MR. KELLER: In other words, there is no British  
preferential duty apart from the 10%.

THE COMMISSIONER: Well, the duties should  
be fixed up. That is very confusing.

MR. MEMOR: You go to one section and you find  
that you get 10% on British preferential duties and

circumstances suggest that the circumstances that you  
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Of course, as Mr. Moser points out quite rightly,  
that is all subject to the qualifications that you

do not get the 10% unless the duty is over 10%.  
So to say you get it or nothing is not correct.

THE COMMISSIONER: No, actually, it should be put  
this way: The British preferential duty is no more

if it is a duty than it is a duty which is not  
subject to the 10% rule.

That is the only way to put it and the only  
way to put it.

That is what it amounts to.

MR. McRuer: I am going to start now on another branch.

THE COMMISSIONER: We will adjourn for recess.

5 -- Adjourned at 3.45 P.M.

-- On resuming at 4 P.M.

MR. McRuer: Now, part 4 of my brief, commencing at page 116, deals with the question of "Investment profits and Costs. This, of course, is an important matter referred to in the Order in Council authorizing this Commission and I do not want any misunderstanding anywhere in reference to the manner in which I am dealing with this subject. I deal with it purely as a tariff protected industry on the principle that anything that goes to the industry in the way of profit over and above what the industry might make in free competition with the world is a tax that is levied on the consumer. It is a tax that the consumer pays by reason of the privilege granted to the industries.

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THE COMMISSIONER: You say, then, that the consumers primary right is to buy his goods at free trade prices?

MR. McRuer: Yes, that is his primary right.

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THE COMMISSIONER: That when you increase prices above that level you are taxing him.

MR. McRuer: Yes.

THE COMMISSIONER: And you are taxing him for the benefit of home industry.

30

MR. McRuer: Yes. And when I approach the



That is what it amounts to.

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MR. MONTGOMERY: Yes, that is his primary right.

THE CHAIRMAN: That when you increase prices

above that level you are taxing him.

MR. MONTGOMERY: And you are taxing him for the

benefit of home industry.

MR. MONTGOMERY: Yes. And when I approach the

question of profits I approach it not on any moral basis at all; I approach it purely on the basis of what the consumer has paid to that industry on that basis of taxation. Now, if we were holding an inquiry into industry generally and the profits they made on the money those who invested in the industry, on the amounts they had invested in the industry - that is, the shareholders had invested in the industry - that would be approached from an entirely different principle. The only principle on which you could approach it probably is on the moral grounds. What they are justified in extracting from the consumer and, again, on what basis they pay their workmen. That has nothing to do with this inquiry, that aspect, as I see it. I see it from the Point of view of what is taken from the consumer by legislation and given to the industries. Now then, that brings me to this Brief and they are enumerated on page 117:

"1. What should the consumers justly be called upon to contribute to the support of the industry through a form of private taxation.

2. What the consumers have contributed to the support of the industry in Canada.

3. What has been done with the money contributed by the consumers for that purpose?"

Now, I have tried to put that in as clear-cut a manner as I can. What is just and, after all, we have to get to consider a question of justice in holding an



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inquiry in respect to what has been done under legis-  
lation that has taken rights away from the consumers.  
After all underlying all legislation should be an  
element of justice. Now, what is just that the  
consumer should contribute and what has been done  
with the money contributed and what is behind that is  
in what measure have those who have put no productive  
efforts into the industry benefitted as against those  
who have put productive efforts into the industry.

THE COMMISSIONER: When you talk of those who  
have put no productive effort into the industry,  
you mean those who put money into it?

MR. McRUER: Put money into it, and this is said  
"But there is management that is involved in handling  
industries." True, there is management, but that  
management is paid for in the way of salary. A  
shareholder, an investor, a member of a syndicate,  
is not the one that puts the management into it except  
as he may on a Board of Directors, and he is paid  
there. The General manager is a man who is paid  
a salary for the use of his brains, the same as the  
weaver is paid a wage for the use of his hands.

Now, I make one or two clear and fundamental  
submissions on this page:

"It is submitted that where a protected  
industry does no substantial export business...."  
And that is important. If an industry is doing  
an export business then it is not the Canadian





consumers that are contributing to the support of the industry in respect to the goods that are sold abroad and we have got to have that in mind in fairness, but I think one of those industries that does some measure of export business - that is the hosiery industry. We have dealt with exports.

"It is submitted that where a protected industry does no substantial export business, all capital created through the operation of the business, over and above a reasonable return to the investor on capital invested by him, has been contributed by the consumer and not by the investor."

Now, what I am referring to there, that is fundamental and that is important in considering ---

THE COMMISSIONER: Would you repeat that last.

MR. McPuer: "It is submitted that where a protected industry does not substantial export business, all capital created through the operation of the business, over and above a reasonable return to the investor on capital invested by him, has been contributed by the consumer and not by the investor."

(Page 14281 follows)



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Now, what I am referring to there, that is industry  
and that is important in considering ---

THE COMMISSIONER: Would you repeat that last  
statement? "It is admitted that where a pro-  
tected industry does not substantial export business,  
all capital created through the operation of the  
business, over and above a reasonable return to the  
investor on capital invested by him, has been  
contributed by the consumer and not by the investor."

THE COMMISSIONER: Do you mean that when the returns are set aside as capital, that that capital has been provided by the consumer?

5 MR. McRURER: Quite so, and it is important in this way. The underlying principle of the protective tariff is this: It is to induce an infant industry to start and to give it an opportunity to grow.

That must mean give them an opportunity to earn profit that will be part of their capital and pay off their liabilities, that will pay for their plant, that will build the company up strong without the investment of money from outside sources, that they will get it out of their own profit, and in addition that they will establish a good will in their plant.

15 There are two things. So if the purpose of a protective tariff is to provide an industry with profits that become capital and make it strong in that way, it is not fair to the consumers for the shareholders to say, "You have kindly provided us with a large profit, which is invested as capital in the industry and which has saved us from putting in capital investment. Therefore we now ask you to provide us with a return on that investment which you have made in the industry for us."

25 Just take an example. We will say that an industry starts up in business with one million dollars invested by those interested in starting the enterprise. They carry on under tariff protection and they build up a surplus of three million dollars. Now I can see that those who invested one million dollars are

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THE QUESTION IS: Do you mean that when the  
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entitled to a fair return on their investment.

THE COMMISSIONER: On the one million dollars ?

MR. McRUER: But I do not conceive that they are entitled to a return on the four million dollars.

THE COMMISSIONER: What then has become of the three million dollars:

MR. McRUER: The three million dollars is there. It was provided by the consumers for the purpose of making this industry strong and healthy, and giving them a plant clear of encumbrances. I will not go so far as to say that we ought to do that, but it is what has been done, and undoubtedly in law it remains the property of the shareholders. But the shareholders have no right to come to the government and say: You must provide us with tariff protection so that we may tax the consumers to give us a return on that four million dollars.

THE COMMISSIONER: You might illustrate what you mean by providing me with a case of what has happened to the three million dollars you refer to.

MR. McRUER: The three million dollars would be surplus earnings invested in plant and machinery so that they may earn money on their one million dollars. But to say that you are to have a five or ten per cent earning on the three million dollars that has been provided by the consumers is not fair to the consumers in fundamental principle under tariff protection.

When I come to deal with specific cases I deal with the money that was actually invested by the



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THE COMMISSIONER: On the one million dollars?

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MR. McLEOD: The three million dollars is the

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investors, and show how much of the capital or the company has been provided out of profits earned from the consumers, that is, taxed out of the consumers and contributed by them.

5 Both of my friends and I clash directly on the principle on which they are entitled to earnings. They say: Look at our earnings. Mr. Kellock says in his brief: The earnings in the whole industry have over the period of depression been 4.2 per cent  
10 on the capital invested. Well, that tells one story, which is a very good one for the whole of this industry, with all the dogs and cats in it reporting. But when you come to consider the fact that that capital has been largely contributed by the consumers, it has an  
15 entirely different aspect.

THE COMMISSIONER: Suppose that those entitled to that surplus of three million dollars, instead of reinvesting it in the industry, took it out and invested it elsewhere, then what would you say?  
20 They would get earnings on that capital invested elsewhere, how would you follow that?

MR. McRUER: They would then show an earning on their investment that would amount to probably ten or twenty or fifty or one hundred per cent on the  
25 one million dollars. Now tariff protection was never intended for the purpose of providing them with any such returns.

THE COMMISSIONER: That is how you would  
30 show the real earnings on the money invested -- taking the three million dollars away and investing it



investors, and when you know of the capital of the  
company has been provided out of profits earned  
from the company, that is, taken out of the com-  
pany and not loaned by them.

Both of us have seen I think already on  
the principle on which they are established as companies.  
They say: Look at our earnings. Mr. K. H. Look says  
in his brief: The earnings in the whole industry  
have over the period of discussion been 4.2 per cent  
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The question is: Suppose that these entities  
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never intended for the purpose of protecting them

the fact is that the money invested --  
the three million dollars was not invested in

elsewhere ?

MR. McRUER: Yes, my lord.

THE COMMISSIONER: But when they move it away they can do what they like with it.

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MR. McRUER: They can do what they like with it. I go one step further. They would not get the return on their one million dollars if they did that, because they would not have their plant built up for them as they otherwise would, and I say that when the consumer provides the funds to build up the plant and make it healthy and strong, he should not be called upon to provide the industry with an additional return.

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THE COMMISSIONER: You say that all they are entitled to is a reasonable return on their one million dollars, so far as the consumers of their product are concerned.

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MR. McRUER: I go one step further. They are entitled to ownership in the capital of the profit that they have made, but they are not entitled to a return on that capital.

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THE COMMISSIONER: We will assume that they might take it away altogether from the industry and put it some place else. You say that all they are entitled to is a fair return on the one million dollars which they brought in.

MR. McRUER: On the one million dollars they brought in.

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THE COMMISSIONER: That is what you say ? That is your argument ?



MR. BAYNE: Yes, my lord.

THE CHAIRMAN: But when they move it away

they can do it they like with it.

MR. BAYNE: They can do what they like with it.

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return on that capital.

THE CHAIRMAN: We will assume that they

might take it away altogether from the industry and

put it some place else. You say that all they are

entitled to is a fair return on the one million

dollars which they brought in.

MR. BAYNE: On the one million dollars they

brought in.

THE CHAIRMAN: That is what you say?

That is your argument?

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MR. McRUER: I am assuming this, that the purpose of a protective tariff is to build up Canadian industry, and they are entitled to some reasonable return for building up the industry, and that is in the way of surplus. I am not quarrelling with them building up a reasonable surplus.

THE COMMISSIONER: If they have had this three million dollar surplus and keep it as you say, they are only to be allowed to earn a reasonable return on the one million dollars?

MR. McRUER: Yes, my lord.

THE COMMISSIONER: And if the same tariff is necessary to give them this reasonable return, are you to maintain the same tariff forever, or do you say: By this time they ought to make a proper use of their capital --

MR. McRUER: Yes, my lord. They ought to make a proper use of their capital. The consumers cannot be called upon to be subject to taxation forever simply because of the basis on which manufacturers choose to run their industries.

THE COMMISSIONER: Are you prepared at this point to tell me what they ought to do or what they might do? To throw away their crutches and walk on their feet?

MR. McRUER: I am going to discuss that a bit later under another head, and I want to show my lord how some of them that are walking with crutches have very, very strong legs.



MR. WATSON: I am assuming this, that the  
purpose of a protective tariff is to build up  
certain industries, and that the tariff is to some  
responsible return for building up the industry, and  
that is in the way of surplus. I am not questioning  
with them building up a responsible surplus.

THE COMMISSIONER: If they have not this three  
million dollar surplus and keep it as you say, they  
are only to be allowed to earn a responsible return  
on the one million dollars?

MR. WATSON: Yes, my lord.  
THE COMMISSIONER: And in the same way, if  
necessary to give them this responsible return, are  
you to maintain the same tariff forever, or do you  
say: By this time they ought to have a proven use

of their capital --  
MR. WATSON: Yes, my lord. They ought to have  
a proven use of their capital. In a moment  
cannot be called upon to be subject to taxation  
forever simply because of the basis on which  
taxes should be put their industries.

THE COMMISSIONER: Are you prepared to  
hold to tell me what they ought to do of that kind  
might do? To throw away their surplus and with  
on their feet?

MR. WATSON: I am going to discuss that a bit  
later under another head, and I want to show my lord  
that are right with surplus have  
very, very little.

THE COMMISSIONER: I suppose you would say that some of them are flying on broomsticks.

5 MR. McRUER: Yes. Now, my lord, I want to deal with one or two other matters that I mention on page 117 of my brief. And I want to stick to the wording I have here because I do not want to be mis-quoted in any sense. I have chosen my wording very carefully, and I mean it in the sense in which it is written down.

10 The next sentence in that paragraph -- I have numbered them 1, 2 and 3 for purposes of convenience -- is this:

15 "It is further submitted that protection of the industry cannot be justified for the purpose of providing a return to the investor on the ground that he is entitled to a return on capital employed in operations that has been created out of profits earned in excess of a reasonable return on the capital invested by him"

20 That is just a repetition of what I have been saying. Continuing:

25 "If a protected industry makes in profits a million dollars over and above a reasonable return on the money actually invested in the industry, the consumer has in reality been taxed to raise that million dollars (that is, assuming that the tariff protection is necessary). It is not just to the consumers that the investors should claim that million

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THE QUESTION: I suppose you would say that  
some of them are lying on their backs.  
MR. BRYCE: Yes. Now, my lord, I want to  
deal with one or two other matters that I mention  
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is, assuming that the tariff protection is  
necessary). It is not just to the consumer  
that the industry should have that million

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as their capital and demand a further tax from the consumers to ~~re~~ pay a return to the investor on that capital. It is more just that the consumers should say: We have invested in your industry a million dollars for the purpose of building up an infant industry and enabling you to meet competition from abroad; we therefore demand a return on our investment in the way of reduced prices through a reduction of tariffs now that we have paid for the establishment of the industry."

I think that clearly expresses the view that I was putting to your lordship. Continuing:

"When reference is made hereafter to earnings on capital employed in operations it must always be remembered that a portion of that capital, and in many cases the greatest portion of that capital, has been provided by the consumers of Canada and not by the investors."

Now if I am right in regard to that as a fundamental principle underlying the use of the power of taxation in respect to a protected industry, then I need say very little in meeting what my friends have brought forward in respect to the profits that the industry has made.

Now I want to refer, my lord, to page 4 of the brief of the Dominion Textile Company. They deal with this subject matter on a fundamental basis, and there we crash head on. We absolutely take issue on the



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fundamental basis. At page 4 my friend says this:

"It is obvious that the return upon the investment in an industry is a most important element in the determination of the question of whether the protection afforded to that industry by a customs tariff is adequate, inadequate or excessive."

We agree that it is an important element in considering that subject.

THE COMMISSIONER: You do not agree, I think, on the real meaning of the word "investment". That is the difference ?

MR. McRUER: Yes, my lord. We disagree on that, but the return is an important element. My friend goes on to say:

"One of the main ultimate purposes of granting protection by means of a customs tariff is the creation of employment in the country establishing the tariff."

My friend puts that down on a fundamental basis, and in reference to that my friend Mr. Beauregard will have something to say in considering the history of the industry with relation to its labour policies, but I am glad that my friend made confession that that is in his view one of the main ultimate purposes in granting protection.

MR. HEWARD: Confession, did you say ?

MR. McRUER: M Yes. My friend goes on:

"It is elementary that in order to establish





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and maintain an industry which will provide such employment, capital must be obtained.

In order to induce the investment of such capital conditions must be such that the investor can expect the preservation of his investment and a reasonable return in the form of income from his investment."

With that one could not quarrel very much I think, although I certainly quarrel with the interpretation of the word "reasonable" later on in the brief. He goes on:

"It follows, therefore, that the extent of the protection afforded to the industry must be such as will permit such preservation and such reasonable return."

That must be taken with the qualification certainly that you cannot be expected to protect everybody and assure them a living because they invest in some textile or other kind of protected industry, irrespective altogether of many other factors that enter into it. Some of the arguments put up remind me of one of Walt Disney's skits, one called the Grasshopper and the Ant, in which the chief refrain of the grasshopper was "The world owes me a living." But it does not go quite that far, so far as a protective tariff is concerned. My friend goes on in his brief:

"The question of the extent of the protection to be afforded to an industry must, of course, be determined in relation to that industry as



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such employment, and I must be satisfied.  
In order to insure the investment of such  
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positive altogether of any other factors that enter  
into it. Some of the arguments put up remind me of  
one of Walt Disney's skits, one called the Grasshopper  
and the Ant, in which the chief refrain of the  
grasshopper was "The winter was very hard 1917-18."  
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there is concerned. My friend goes on in his  
brief:  
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to be afforded to an industry must, of course,  
be determined in relation to that industry."

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a whole, and not in relation to any one company alone."

I do not agree with that general statement.

5 Certainly you cannot determine the extent of protection with relation to the industry as a whole, because that would simply mean this, that the more people they get into the industry, the more uneconomic it becomes, and therefore the higher the protection must be.

10 THE COMMISSIONER: I think the statement only means this. What you tax are the foreign goods coming in, and you cannot tax them in respect of only one company at a certain rate, and in respect of another company at a different rate. I think  
15 that is what is meant.

MR. HEWARD: That is what is meant, my lord.

MR. McRUER: Then I misread it.

THE COMMISSIONER: You see, we can only have one rate.

20 MR. McRUER: Yes, I know. I thought it meant this, that the profits made by one company could not be taken as a guide as to the extent of the protection that must be given the industry as a whole, and with that principle I disagree because certainly  
25 one must take as a standard a well-managed representative company engaged in the industry.

MR. HEWARD: You could not ask for a tariff just on the basis of one company alone. You have  
30 to see the whole picture. I think that is quite obvious. You must read it with the next sentence to



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I do not agree with that point of view.  
Certainly you cannot appreciate the extent of protection  
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THE CHAIRMAN: I think the statement only  
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of another country at a different rate. I think  
that is what is meant.  
MR. HANCOCK: That is what is meant, my lord.  
MR. HANCOCK: Then I misread it.  
THE CHAIRMAN: You see, we can only have  
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MR. HANCOCK: Yes, I know. I thought it meant  
this, that the profits made by one country could  
not be taken as a guide as to the extent of the pro-  
tection that must be given the industry as a whole,  
and with that objection I therefore became satisfied  
one must have as a standard a well-managed business  
which would be the guide.  
MR. HANCOCK: You could not ask for a tariff  
that would be the guide of the industry as a whole.  
We see the whole picture. I think that is quite  
correct. You must need it with the rest of the

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see why I put that first sentence in.

MR. McRUER: Very well. It goes on:

"It is pertinent and useful, however, to discuss the question of the bearing of return on investment upon tariff protection in relation to the Dominion Textile Company, Limited, because (a) that company and its subsidiaries constitute a large proportion of the textile industry, cotton and rayon, in Canada, and (b) the financial structure and history of Dominion Textile Company, Limited and its alleged earnings have been specially singled out for attack by Commission counsel in that connection."

I do not like the use of the word "attack" although I do not think my friend meant it in any offensive way.

THE COMMISSIONER: He meant it in its legal sense.

MR. HEWARD: It was meant in its legal sense. We certainly have been attacked throughout the hearings.

MR. McRUER: I have considered it my duty, irrespective of the size of the company, to try and bring out all the facts, and I do not think I have treated the Dominion Textile Company in any different way from what I have treated any other company that has come before the Commission. I have certainly no desire to do so, but undoubtedly they form a great



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see why I put that first sentence in.

... and it is very clear.

"It is pertinent and useful, however, to

discuss the question of the bearing of return  
on investment upon tariff protection in relation  
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THE COMMISSIONER: He meant it in its local

sense.

MR. BRYCE: It was meant in its local sense.

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MR. BRYCE: I have considered it very fully,

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intention to do so, but undoubtedly they form a great

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section of the cotton industry, and the company has had a rather spectacular history, and that it has been my duty to bring that out in all its details is not my fault, but possibly my conception of my duty. My friend goes on in his brief:

"The matter of return on investment may be looked at in two ways, namely, (a) the ratio of earnings to invested capital, and (b), the ratio of earnings to the value of the investment, and it is submitted that from both points of view the earnings of the Dominion Textile Company Limited have been and are low and, in fact, less than those whose capital is at stake would be entitled to expect."

From the point of view of a tariff protected industry again I submit that neither ground is the proper one on which to consider the matter, the return as related to tariff protection, because under (a) you disregard the fact of the extent to which the capital invested is capital that was created out of the profits earned in doing business, as distinct from capital invested by outside investors. If my friend means actual investment by outside investors, then I do not think he would make the latter part of his statement. The ratio of earnings to the value of the investment is an entirely erroneous basis on which to consider the return in respect to the power of taxation given to the industry.

My friend goes on to quote some cases. Probably





I had better deal with it in the order that he has dealt with it in his brief. My friend attempts to set up a foundation for the purpose of determining on what basis the earnings ought to be reckoned, in order to show whether or not there have been excessive profits made under the circumstances.

MR. BLWARD: What are you referring to now?

MR. MORUER: I am away from the brief at the moment. I have taken as one example and one way of considering it the dividends, for instance, that were paid on the amount of money actually invested in the business, and the share of the capital that is still in the business to which the original investment would be related.

In the first place we clash to a certain extent on the question of whether the \$500,000 that was invested in the capital stock for the \$5,000,000 in capital stock that was issued was the amount that the members of the syndicate actually invested in this company. My friend attempts to establish that it was not \$500,000, but that it was \$2,600,000, in this way. He says that there was a transfer of the assets of the constituent companies, the Merchants Cotton Company, the Dominion Cotton Company, the Montmorency Cotton Company, the Colonial Bleaching Company -- that there was a transfer of their assets to the Dominion Textile Company, and although that took place, and although all the money that the members of the syndicate invested in the Dominion Textile Company Limited was \$500,000, the assets of



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MR. HOWARD: What are you referring to now?  
MR. HOWARD: I am away from the point of the  
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the first place, and then he is brought to the  
assets of the constituent companies, the Mercantile  
Cotton Company, the Dominion Cotton Company, the  
Savannah Cotton Company, the Colonial Plantation  
Company -- that there was a transfer of their assets  
to the Dominion Cotton Company, and that the  
money that the  
invested in the syndicate invested in the Dominion  
Cotton Company Limited was \$500,000, the assets of

these companies had a value on their books of \$2,100,000 more than the amount of the securities that were issued.

5 But let us examine it and see exactly what was done. There were certain shareholders who owned these companies, shareholders owning each company, and securities were issued by Dominion Textile in bonds or preferred stock to take up all the shares that were outstanding in these companies. The Dominion Textile Company paid for that.

10 THE COMMISSIONER: How much?

MR. McRUER: It was done on a pro rata basis.

15 THE COMMISSIONER: I know that the rates allowed in respect of each company differed, but what was the total consideration?

MR. McRUER: It was not a fixed figure. There was so much preferred stock issued. It is all on the record.

20 THE COMMISSIONER: Perhaps we had better not take time with that now.

MR. McRUER: In principle what was done was this.

THE COMMISSIONER: Tell me this. You are talking of the \$500,000 actual cash that was put in?

MR. McRUER: Yes.

25 THE COMMISSIONER: What did that buy?

MR. McRUER: \$5,000,000 of common stock. The syndicate was formed. The members of the syndicate contributed \$1,000,000 to the syndicate. \$500,000 was issued in preferred stock, and they got \$5,000,000 in common stock. The securities of the Dominion Textile Company paid off all the shareholders in the

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EXHIBIT

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THE COMMISSIONER: How much?  
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THE COMMISSIONER: Perhaps we had better not  
go into that now.  
MR. BRYDIE: In principle what was done was that  
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talking of the \$2,000,000 actual cash that was put in.  
MR. BRYDIE: Yes.  
THE COMMISSIONER: Is that all that was put in?  
MR. BRYDIE: \$2,000,000 of common stock. The  
syndicate was formed. The words of the syndicate  
were: We will take up all the shares of the  
companies in preferred stock, and then we will  
be in a position to take up all the shares of the  
Textile Company paid off all the shareholders in the

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5 other constituent companies. Now you could dress that up in whatever clothes you like -- there it is just the same, that all that the members of the syndicate put up was \$1,000,000, for which they got in preferred stock \$500,000, and they got \$5,000,000 in common stock.

THE COMMISSIONER: And that wiped out the four parent companies ?

10 MR. McRUER: Wiped out the four parent companies. The Dominion Textile Company became the owner of the four parent companies.

15 My friend goes on in his factum to say that on the books of the other companies the assets were carried at \$2,100,000 more than the amount of the securities that were issued against these assets. But we find that very shortly afterwards, before 1910, they had written off \$2,400,000 of these assets out of the profits of the new company.

20 MR. HEWARD: What was that again ?

MR. McRUER: They wrote off \$2,400,000 of these assets that were supposed to have more value than the securities that were issued against them.

MR. HEWARD: When ?

25 MR. McRUER: Before 1910.

THE COMMISSIONER: You would say the consumers did that.

30 MR. McRUER: \$500,000 was written off reserves and \$1,600,000 out of profits. I said a moment ago \$2,400,000 was written off. Mr. Howson tells me it



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Q. Now that was that again ?  
A. Yes. They wrote off \$2,400,000 of these  
assets that were supposed to have more value than the  
liabilities that were issued against them.

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Q. When ?  
A. Before 1913.  
Q. You would say the companies

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the first  
the second, third, fourth and fifth companies  
and \$1,000,000 was written off. I think it was in 1913  
\$1,000,000 was written off. In 1914 it was \$1,000,000

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was \$2,200,000. It is a bookkeeping entry anyway. But whatever way you like to take it, after all the fact remains that in this cotton industry these gentlemen put up \$500,000, and they got \$5,000,000 in common stock.

Now my friend at page 6 of his factum puts up what to me is certainly an awful proposition in considering the rates of customs duty and the basis on which they should be arrived at. At the foot of page 6 my friend says:

"It is not proper, however, to take into account only the tangible assets in the form of plant, machinery, stock-in-trade, etc., represented by the shares of the constituent companies acquired by Dominion Textile Company, Limited, because that company in fact received intangible assets which soon proved to be of considerable value."

Now let us see what those intangible assets were.

The intangible assets consisted of service in negotiating the acquisition of the shares of the four constituent companies, the selling at par of the bonds and the preferred stock of the new company, the benefit of unified management and control, and of reductions in overhead, and then comes the one thing in this that really amazes me. He says:

"the elimination of excessive competition among the original companies and similar factors which though intangible are nevertheless of real value and importance."



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Now let us see what those intangible assets were.  
The intangible assets consisted of service in nego-  
tiating the acquisition of the shares of the company  
affiliated companies, the selling of part of the plant  
and the purchased stock of the new company, the  
benefit of skilled management and control, and of  
reductions in overhead, and then comes the one thing  
in this that really amazes me. He says:  
"the elimination of excessive competition  
which was a vital factor in the industry  
which through intangible the newness of  
plant value and location."

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I quite agree with my friend that the elimination of competition among the four companies was of great intangible value to Dominion Textile Company when it got going. There is no doubt about that, and it is proved by the profits they made, but that you can base tariff protection on the fact that you have eliminated competition and thereby given to the company an intangible value, for the owners of that intangible value then to claim that they are entitled to a return on it, on the right to suppress competition -- I do not think that is tenable. It means this. They say to the consumers; "We have amalgamated; We have eliminated competition; we have strengthened our power to squeeze you; and now we say because that is of great worth to us, millions of dollars, and it was worth that to them, we want a tariff protection to give us the right to exercise that power to squeeze to the full and to pay us a return of five or ten per cent or whatever it may be on the value of that right to the company.

Now if we were engaged in an expropriation to take the assets of the Dominion Textile Company away from them, I would say that that was a very, very strong argument for my friend to put forward, that the company had eliminated competition, that it had acquired a very valuable asset and was in a position to use it, and that it was entitled to earnings upon it, and that that asset was entitled to a valuation in the expropriation proceedings.



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our power to suppress you; and now we say because  
that is of great worth to us, millions of dollars,  
and it was worth that to them, we want a tariff pro-  
tection to give us the right to exercise that power  
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a position to use it, and that it was entitled to  
something upon it, and that that asset was entitled  
to a valuation in the expropriation proceedings.

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But to go to the consumers and say: Because of that asset we are entitled to tax you to pay us a return upon it -- that is an entirely different proposition. Or to go to the government and say: We are entitled to a tariff to give us the opportunity to tax the consumers -- that is an entirely different proposition.

My friend quotes cases in support of his proposition that these intangibles have a real value and must be taken to have a value. I do not think we need any cases to tell us that they have a value. They were of tremendous value to the Dominion Textile Company because the earnings of the company show it. But to say that that is a value on which the consumers ought to be taxed to pay dividends is an entirely different proposition.

My friend also puts it on the basis of a return on public utilities, and attempts on the basis of certain cases decided in respect to public utilities where franchises are given, to support his theory that these intangibles have value and were entitled to an ~~early~~ earning on that value. But again the fundamental basis of that --

MR. HEWARD: Pardon me. I do not use public utilities at all to illustrate the question of intangibles. That has nothing to do with intangibles. It is on the value of the investment.

MR. McRUER: Very well. I may have misunderstood my friend on that. But what I have got to say



But to go to the consumers and say: Because of  
that cause we are entitled to tax you to pay as a  
return upon it -- that is an entirely different pro-  
position. Or to go to the government and say: We  
are entitled to a tariff to give us the opportunity  
to tax the consumers -- that is an entirely different

My friend quotes cases in support of his  
position that cases which are not cases  
and must be taken to have a value. I do not think we  
need any cases to tell us that they have a value.  
They were of tremendous value to the Dominion Pacific  
Company. But to say that that is a value on which the consumers  
ought to be taxed to pay dividends is an entirely

My friend also puts it on the basis of a  
value as would be the case, and it is on the basis  
of certain cases decided in respect to public utility  
that where franchisees are given, to support his  
theory that these franchises have value and were  
entitled to an equity earnings on that value. But  
again the fundamental basis of that --

Mr. BRIDGES: Pardon me. I do not see public  
utility as all the franchisees are entitled to  
compensated. That has nothing to do with interest.  
It is on the value of the investment.

Mr. BRIDGES: Yes, well, I am not interested  
in the value of the investment. I am interested in the

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is exactly the same with respect to the other argument. To take public utilities as a basis to show that you are entitled to an earning on the value of the capital invested, irrespective of who contributed it, whether it was contributed by the investor or by the consumer -- I say that is not sound, because the public utility is giving to the public a service. On the other hand the protected industry is given by the government a privilege, and it gives no service to the consumer except the privilege to pay a higher rate. The consumer's right to buy in the lowest market is taken away from him on the one hand in aid of the industry. On the other hand, the public utility gives to the consumer a service which he otherwise would not have. He would have to walk if he did not have transportation provided or if he did not provide his own; he would have no electric lights if electric light was not brought to him or if he did not provide his own electric light. On the other hand he has a perfect right to buy and would be able to buy in the cheapest market in the world if it were not for the protective tariff.

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-- The Commission adjourned at 4.50 p.m., to resume at 10.30 a.m. Monday, February 8, 1937.

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the public utilities as a basis to say that you  
are entitled to an earnings as the value of the capital  
invested, irrespective of the contribution of another  
investor...  
-- I say that is not sound, because the public utility  
is giving to the public a service. On the other hand  
the protected industry is given by the government a  
privilege, and it gives no service to the consumer  
except the privilege to pay a higher rate. The  
consumer's right to pay in the lowest market in town  
every item in the one hand in aid of the industry.  
On the other hand, the public utility gives to the  
consumer a service which he otherwise would not have.  
The public utility will not let the consumer know  
that provided or if he did not provide his own; he would  
have no electric lights if electric lights was not  
provided to him or if he did not provide his own electric  
lights. On the other hand he has a perfect right to  
pay for the service he gets in the lowest market town.  
In the same way he has the same perfect right to pay for the service he gets in the lowest market town.

-- The examination adjourned at 4.30 p.m. to

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ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S. Whiteley, Secretary,

ONE HUNDRED AND FIFTH DAY

(February 8th, 1937)

A R G U M E N TRobert Brydie,  
Official Reporter.



ROYAL COMMISSION ON THE FUR TRADE

REPORT OF THE COMMISSIONER

COMMISSIONER

REPORT OF THE COMMISSIONER

ONE HUNDRED AND FIFTH DAY

(PARTIAL) (PARTIAL)

APPENDIX

ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S. Whiteley, Secretary,

A p p e a r a n c e s :

J.C. McRuer, K.C. and )  
E. Beauregard, K.C. ) Commission Counsel,

R.L. Kellock, K.C. For Primary Textiles  
Institute.

C.G. Heward, K.C. )  
Aime Geoffrion, K.C. ) For Dominion Textile  
and ) Company.  
C.T. Ballantyne, )

S.G. Dixon, K.C. For Courtaulds Limited,

L.A. Forsyth, K.C. For Canadian Celanese Ltd.  
and Canadian Silk Products  
Limited.

A.S. Bruneau, K.C. For Canadian Cottons.

Thos. Tremblay, K.C. )  
and ) For M.E. Binz Co. Ltd.  
J.H. Hebert, )

Francois Lajoie, K.C. For Wabasso Cotton Co.

-- ooo --



PORT BRIDGE STATIONARY ENGINEERING

Wm. Mc. Lister, K.C., Toronto

Commissioner

Wm. Mc. Lister, K.C., Toronto

APPOINTMENTS

10

J.G. Horner, K.C. and

Commissioner

R.L. Kellock, K.C. For Primary Textiles  
Insurance

15

C.G. Howard, K.C.

For Dominion Textiles

Aime Geoffroy, K.C.

Company

C.T. Ballantyne

S.G. Dixon, K.C. For Commercial Linen

Wm. Mc. Lister, K.C. For Canadian Silk Products  
and Canadian Silk Products  
Limited

20

Wm. Mc. Lister, K.C.

For Dominion Textiles

Thos. Threlby, K.C.

For M.H. Line Co. Ltd.

and  
Wm. Mc. Lister

Francis Laford, K.C. For Babcock Boston Co.

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-- 25 --

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Ottawa, Ontario,  
February 8th, 1937.

-- The Commission resumed at 10.30 A.M.

ARGUMENT by MR. McRUER (resumed)

5 My lord, when we adjourned on Friday afternoon,  
we had reached pages 116, 117 and 118 of my Brief.  
May I just for a moment repeat what I said on Friday  
afternoon in reference to my submission in regard  
10 to what may fairly be considered for the purpose of  
fixing tariff s in respect to earning on capital  
invested in the industry.

15 In the first place, if an industry cannot make  
any profit under Free trade conditions, then we may  
assume that if it is given tariff protection and it  
does make a profit, that that profit is due to the  
tariff protection. Otherwise it could go on and do  
20 business without the tariff protection. We may  
assume that the tariff protection is necessary and  
indidental to the profit earned by the industry.  
If that is not true, tariff protection is not necessary  
because the industry can do business and earn its  
25 profit without it. But if it is true then the  
profit that the industry makes is a very necessary  
thing to take into account in considering what tariff  
protection the industry should have, and how far it  
should have tariff protection. If the tariff pro-  
30 tection is for the purpose of permitting the industry



-- The Commission resumed at 10.30 A.M.

Argument by Mr. L. L. L. (resumed)

My lord, when we adjourned on Friday afternoon, we had reached pages 110, 111 and 112 of my brief. May I just for a moment repeat what I said on Friday afternoon in reference to my submission in regard to what may fairly be considered for the purpose of fixing tariff is in respect to earning on capital invested in the industry.

In the first place, if an industry cannot make any profit under free trade conditions, then we may assume that if it is given tariff protection and it does make a profit, that that profit is due to the tariff protection. (Otherwise it could go on and do business without the tariff protection. We may assume that the tariff protection is necessary and incidental to the profit earned by the industry.

If that is not true, tariff protection is not necessary because the industry can do business and earn its profit without it. But if it is true then the profit that the industry makes is a very necessary thing to take into account in considering what tariff the industry should have, and how far it would have tariff protection. If the tariff protection is too low it would not be sufficient to enable the industry to make a profit.

to be built up so that it may be strong financially,  
it cannot be for the purpose of giving those who  
invested in the industry a return on the capital  
invested over and above a reasonable profit.

Now, what is a reasonable profit is difficult to  
determine. It is much easier to determine that an  
industry has had in the past more than a reasonable  
profit, and that it would not be reasonable to go on  
in the future demanding that the consumer should  
contribute profit on profit endlessly. I think my  
point will become very apparent when I come to deal  
with specific cases that we have considered.

May I illustrate what I have to say in this way:  
Assume for the purpose of argument that 10% per annum  
over a period of years is a reasonable profit.  
I am not saying that it is; I am not saying that it  
is not. I am just taking that figure for the purpose  
of illustration only.

Now, supposing a man invests in an industry \$1,000,000,  
and draws out in dividends 6% and leaves in 4% to  
accumulate and build up the industry.

THE COMMISSIONER: He is making 10%.

MR. McRUER: He is making 10%. He draws out 6%  
and leaves 4% in. If we assume that 10% is a reasonable  
profit, that 4% of his profits that is left in the  
industry and reinvested, so to speak, on that he would  
be entitled to a return the same as though he had  
invested it originally. But if in addition to the



to be built up so that it may be strong financially,  
it cannot be for the purpose of giving those who  
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THE GOVERNMENT: He is making 10%.  
...  
...  
... that 4% of his profits that is left in the  
industry and reinvested, so to speak, on that he would  
be entitled to a return the same as though he had  
invested it originally. But it is not in addition to the

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4% that he has left in, there is a reserve built up of one or two or three million dollars --

THE COMMISSIONER: Let us suppose the profits were, say, 15%?

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MR. McRUER: Yes, my lord.

THE COMMISSIONER: And you say that would be 5% more than was reasonable?

MR. McRUER: More than was reasonable.

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THE COMMISSIONER: And then what?

MR. McRUER: That is built up and left as reserve in the business, and I say that it is not reasonable that the consumer should be asked to pay a dividend on that addition reserve.

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THE COMMISSIONER: Let me see what the implications are. You say that if he leaves that extra 5% in the business --

MR. McRUER: Yes.

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THE COMMISSIONER: If he leaves the proceeds of that in the business, it is not reasonable that he should get any profit on it.

MR. McRUER: Yes.

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THE COMMISSIONER: Then he would not leave it in the business in that case.

MR. McRUER: Yes, because it provides him with free capital in the business.

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THE COMMISSIONER: Supposing he did not leave it there. Supposing he took it out and put it some place else?



as that he has left in, there is a reserve built up  
of one or two or three million dollars --  
THE COMMISSIONER: Let us suppose the profits were  
more than was reasonable?  
MR. MORRIS: More than was reasonable.  
MR. MORRIS: That is built up and left as reserve  
in the business, and I say that it is not reasonable  
that the consumer should be asked to pay a dividend  
on that reserve.  
THE COMMISSIONER: Let me see what the implication  
are. You say that if he leaves that extra \$2 in  
the business --  
MR. MORRIS: Yes.  
THE COMMISSIONER: It is better for the consumer  
that in the business, it is not reasonable that he  
should get any profit on it.  
MR. MORRIS: Yes.  
THE COMMISSIONER: Then he would not leave it  
in the business in that case.  
MR. MORRIS: Yes, because it is better for the  
firm capital in the business.  
THE COMMISSIONER: Supposing he did not leave it  
there, supposing he took it out and put it some place

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MR. McRUER: Then the consumers have been called on to pay him 15% dividends, which is more than is reasonable.

5 THE COMMISSIONER: You say that if he leaves it in the industry - it is a textile industry - he is not to get any profit on it?

MR. McRUER: Yes.

10 THE COMMISSIONER: Then he suppose he takes it out of that industry and puts it in the boot and shoe industry. Suppose he starts a new industry with it. He is dealing with the same consumers, is he not? The people who buy textiles also buy boots and shoes. Is he not to get any return on it from the boot and shoe industry? How would you hold him down so that 15 his extra 5% made out of the Textile industry is not going to bear him profits out of the consumers in some other industry?

20 MR. McRUER: That would have to be considered in dealing with tariff protection on those other things. I am saying that a tariff protection should not be designed ---

25 THE COMMISSIONER: To give him that 5%?

30 MR. McRUER: To give him more than a reasonable profit, and when we look over what has happened in the past and find that in the past they have not only given him what is a reasonable profit, but have provided him with free capital to go on with, on which he does not pay any interest to the Bank - the consumers have



MR. MORRIS: Then the consumers have been called  
on to pay him 10% dividends, which is more than is  
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THE COMMISSIONER: You say that if he leaves  
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THE COMMISSIONER: Then he suppose he takes it  
out of that industry and puts it in the boot and shoe  
industry. Suppose he starts a new industry with it.  
He is dealing with the same consumers, is he not?  
The people who buy textiles also buy boots and shoes.  
Is he not to get any return on it from the boot and  
shoe industry? How would you hold him down so that  
his extra 10% made out of the textile industry is not  
going to bear him profits out of the consumers in  
the shoe industry?

MR. MORRIS: That would have to be considered  
in dealing with tariff protection on those other things.  
I am saying that a tariff protection should not be

THE COMMISSIONER: To give him that 10%?  
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the past and find that in the past they have not only  
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him with free capital to go on with, on which he does  
not pay any interest in the bank - the consumers have

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provided him with that capital - then it would be more reasonable to say that any profit earned on that capital should go to the wage-earners, if you are not going to reduce the tariff and give the benefit of that reduction to the consumers. I can give an illustration where such a thing has been done abroad with one particular company.

THE COMMISSIONER: What is the illustration?

MR. McRUER: The Zeiss Company. I have a book on it. It is a wealthy corporation that has been built up in that way, and part of their return on their invested capital goes to the investors, part to the wage-earners and part to the university. It is a sort of private philanthropic concern.

THE COMMISSIONER: What is the nature of the business of this Company?

MR. McRUER: They manufacture lenses.

THE COMMISSIONER: Is it a large establishment?

MR. McRUER: The largest in the world. It is a German Company. I am merely presenting the case purely from the point of view of justice to the consumers.

THE COMMISSIONER: Would you have it this way. Would you have some legal arrangement whereby, assuming that 10% is a reasonable profit, that if they make more than 10% it should inure to the benefit of the consumer, or if they make more than 10% it should be



...the more reasonable to say that any profit earned on that  
capital should go to the wage-earners, if you are not  
going to reduce the tariff and give the benefit of  
that reduction to the consumers. I can give an  
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with one particular company.

THE COMMISSIONER: What is the illustration?  
MR. McNEIL: The Swiss Company. I have a book on  
it. It is a leading corporation that has built  
up in that way, and part of their return on their  
invested capital goes to the investors, part to the  
wage-earners and part to the university. It is a  
sort of private philanthropic concern.

THE COMMISSIONER: What is the nature of the  
concern?  
MR. McNEIL: They manufacture lenses.  
THE COMMISSIONER: Is it a large establishment?  
MR. McNEIL: The largest in the world. It is a  
Swiss company. It is entirely controlled by the  
purely from the point of view of justice to the  
community.

THE COMMISSIONER: Would you have it this way?  
...the more reasonable to say that any profit earned on that  
capital should go to the wage-earners, if you are not  
going to reduce the tariff and give the benefit of  
that reduction to the consumers. I can give an  
illustration where such a thing has been done abroad  
with one particular company.

used for increasing wages and other purposes such as you described.

5 MR. McRUER: Personally unless the company adopts such a procedure themselves, I do not think it could be done by law. But I do say that when you come to study the past history of these companies and find, as we find here, that the Dominion Textile Company, for instance, and I shall deal with this company specifically in this regard, - when we find that the 10 investors who actually invested their money have got more than a reasonable profit on their actual investment of money, that the consumers have built up and bought and paid for many times over the whole plant, that they 15 have provided the company with the millions invested in the plant, it is not fair for that company to come back and say: It is true our investors have got 98.4% return on their money that they actually put in, and that we have paid all our bond interest, 20 that they have provided us with fifteen or twenty million dollars worth of plant, and now we want the consumers to go on and provide us with a return on that money which they have provided for us.

25 THE COMMISSIONER: You mean 98.4% annually?

MR. McRUER: Annually, yes, and I say it is not fair for the Company to say: We want you to go on providing us with 6% on the accumulated capital in 30 the business, in addition to the dividends we have drawn, when you are looking at the tariff requirements



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you described.

MR. McNEIL: Personally unless the company adopted  
such a procedure themselves, I do not think it could  
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as we find here, that the Dominion Textile Company,  
for instance, and I shall deal with this company

specifically in this regard, - when we find that the  
investors who actually invested their money have got  
more than a reasonable profit on their actual investment

of money, that the consumers have built up and bought  
and paid for many times over the whole plant, that they  
have provided the company with the millions invested

in the plant, it is not fair for that company to

come back and say: It is true our investors have

put in, and that we have paid all our bond interest,

that they have provided us with fifteen or twenty

million dollars worth of plant, and now we want the

consumers to go on and provide us with a return on

that money which they have provided for us.

R. McNEIL: Annually, yes, and I say it is not

providing us with 5% on the accumulated capital in

the business, in addition to the dividends we have

received, what you are looking at the tariff reduction

for the future. That is not a sound basis, and that is the basis on which my friend puts his case.

THE COMMISSIONER: You have in mind the original investors?

5 MR. McRUER: Yes.

THE COMMISSIONER: Those who made this large percent annually?

MR. McRUER: Yes.

10 THE COMMISSIONER: What about those who came in later, in recent years?

MR. McRUER: I do not believe that the consumers can be made to bear the burden of financial manipulation and share-splitting that takes place on an inflation of capital that is contributed by the consumers. I think we have got to look at it, in these tariff matters, with an idea of justice to the people who provided these returns, and having regard to the past, while a company has split its shares, and where the original investors have floated them out on the public, I say it is not quite just to put all that burden back on the consumers because they have done that. What we have got to have in mind is justice to the people who have been taxed and are going to be taxed in the future. Now if the financiers have wronged their investors, it is not very fair to the consumers to make them bear the brunt of it by legislation. And as to the principles on which tariff should be fixed for the future, I do not think that the consumers

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For the future, that is not a sound basis, and that  
is the basis on which my friend puts his case.

THE COMMISSIONER: You have in mind the original

MR. HOLMAN: Yes.

THE COMMISSIONER: Those who made this large pro-

cessive?

THE COMMISSIONER: That about those who came in

MR. HOLMAN: I do not believe that the consumers

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can be called upon to go on forever to support one  
pyramiding of stock upon another. The Government  
that gives character and personality to these legal  
entities by the incorporation of companies - I deal  
5 with this later on - ought to exercise some super-  
vision over the manner in which the capitalization  
is handled especially in regard to protected companies  
which depend upon legislation to give them profits  
and give them a reasonable opportunity for existence.  
10 There ought to be some control over what happens.

Take the Dominion Textile Company's own case,  
and I am dealing with that only as a matter of  
principle. Mr. Glasco says that in 1921 there was  
15 an increase in plant values due to increment, due to  
a natural rise in prices, and that that gave the  
foundation to the appraisal in 1921 on which basis  
the company split its shares. Now just let us  
20 analyse that. It simply means that plant values  
rose and they took advantage of that rise  
in plant values and spread out on the public a little  
more stock, split their shares, saying: we can  
25 set up a bookkeeping entry against those shares of  
plant values. And then when plant values come down,  
and since they have come down by 40%, which puts them  
within 20% of where they were before, there is that  
much pure water in the stock. When you issue  
30 capitalization on an increment in values when values  
are at the peak, and when values are going to drop



can be relied upon to go on forever to support one  
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vision over the manner in which the capitalization  
is handled especially in regard to protected companies  
which depend upon legislation to give them profits  
and give them a reasonable opportunity for existence.  
There ought to be some control over what happens.  
Take the Dominion Textile Company's own case,  
and I am dealing with that only as a matter of  
principle. Mr. Giesco says that in 1931 there was  
an increase in plant values due to increment, due to  
a natural rise in prices, and that that gave the  
foundation to the appraisal in 1931 on which basis  
the company split its shares. Now just let us  
analyse that. It simply means that plant values  
rose and they took advantage of that rise  
in plant values and spread out on the public a little  
more stock, split their shares, and then when plant values  
set up a bookkeeping entry against those shares of  
plant values. And then when plant values come down,  
and since they have come down by 40%, which puts them  
within 25% of where they were before, there is that  
capitalization on an increment in values when values  
are at the peak, and when values are going to drop

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again, I say that is not fair to the consumers.

But I am getting a little ahead. I am going to deal with that a little more extensively later on. I am dealing with it now simply on the question of principle as to one thing first - calling on the consumers to pay a return on capital invested which has accumulated over and above what might be considered a reasonable profit. It is the same principle as the granting of a subsidy. Suppose the Government voted a subsidy to their industry directly, instead of giving them the right to tax consumers in order to raise the subsidy. Could the Company come back and say: You have voted us \$1,000,000, and we have made 10% on the investment, and over and above that we have accumulated 10%. You have given us a subsidy of \$1,000,000, and now we want you to continue paying the subsidy and giving us a return on the \$1,000,000 that you have given us.

Now that is free capital that they did not have to pay for, and it is unfair to the consumers to say: You have given us this free capital, and now we want you to pay interest on it. We shall relieve them of paying interest on it. I do not think there is anything radical in that suggestion. Economically it is not radical doctrine at all. It is merely the question of quantum of tariff and of justice to the people who are affected by the tariff; that is all. It is not at all in the nature of confiscation or



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 but a system of subsidizing industry which has been  
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 the investment, and over and above that we have  
 accumulated 10%. You have given us a subsidy of  
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 the subsidy and giving us a return on the \$1,000,000  
 that you have given us.  
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 You have given us this free capital, and now we want  
 you to pay interest on it. We shall relieve them  
 of paying interest on it. I do not think there is  
 anything wrong in that reasoning.  
 It is not radical doctrine at all. It is merely the  
 question of payment of interest and of interest on the  
 people who are affected by the tariff; that is all.  
 It is not at all in the nature of compensation or

anything of that sort. It is just a question of what barometer you take in arriving at the tariff. Are you to consider the earning on the capital invested where the tariff has been excessive in the sense that it has permitted them to earn more than reasonable profits, or are you simply to permit the industry to make a reasonable profit in order that it may leave some of it in and may take a reasonable amount of it out, and may build up and get strong, and from there carry on and do with less tariff, instead of asking for more. Otherwise the richer we make them, the more we have to give them, and the smaller the population the heavier the tax. I want to deal now with some of these companies specifically, and I shall deal first with the Artificial Silk Division.

I propose in dealing with these specific companies to take only those companies that Mr. Kellock does not represent, until he can be present.

The Canadian Celanese Limited are manufacturers of Cellulose acetate yarns and fabrics. They weave 99% of their yarns.

THE COMMISSIONER: They manufacture fabrics as well as yarns?

MR. McRUER: Yes, and they weave 99% of their yarns. As we say in a later part of the brief, the yarns which they sell to the trade are practically negligible. In that sense they are quite different from Courtaulds because the Courtauld Company do not weave any yarns



anything of that sort. It is just a question of  
what barometer you take in arriving at the tariff.  
are you to consider the earnings on the capital invested  
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out, and may build up and get strong, and from there  
carry on and do with less tariff, instead of asking  
for more. Otherwise the richer we make them, the  
more we have to give them, and the smaller the profits  
the heavier the tax. I want to deal now with some  
of these companies specifically, and I shall deal first  
with the Agricultural and Mechanical  
I propose in dealing with these specific companies  
to take only those companies that Mr. Bellamy does  
not represent, until he can be present.  
The Agricultural and Mechanical  
of estate farms and factories. They have 500 of  
their farms.  
THE COMPANY'S INTEREST: They manufacture tobacco as  
well as cigars.  
MR. BELLAMY: Yes, and they receive 500 of their profits  
they sell to the trade are practically negligible.

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at all and they sell all their yarns to the trade; they sell their entire output to the trade. Canadian Celanese Limited is different from the Courtaulds Company in the sense that they weave cellulose acetate yarns only, and the Courtaulds Company spin viscose yarns, and they sell probably quite a limited amount of acetate yarns which they import from England.

I give the history of the Canadian Celanese Company at page 119 of my Brief. The Company was incorporated on January 27th, 1926. They were incorporated by company known as the Cancell Limited, which is a British Company, and they and the Cancell Limited agreed to pay The Canadian Celanese Limited \$2,275,000 on or before the 5th of May, 1926, and \$2,275,000 on or before the 1st of December, 1926, and \$2,000,000 plus accrued dividends on 20,000 Seven Percent Cumulative Participating Preference Shares. That latter was a small item, and was merely for the purpose of equalizing the dividends on the preferred stock.

THE COMMISSIONER: By the way, there is nobody here representing this company, is there?

MR. McRUER: No, Mr. Forsyth said that he had to go away to the West Indies. I told him that all I had to say in reference to his Company was in the Brief practically, and he said he would submit anything he had to say in answer in writing. I go on to say in the brief:



at all and they sell all their yarns to the trade; they sell their entire output to the trade. Canadian Celanese Limited is different from the Courtland Yarns only, and the Courtland Company spin viscose yarns, and they sell probably quite a limited amount of acetate yarns which they import from England. I give the history of the Canadian Celanese Company at page 119 of my brief. The Company was incorporated on January 27th, 1926. They were authorized to acquire assets in the United States, and they did so. Limited agreed to pay the Canadian Celanese Limited \$2,275,000 on or before the 1st of May, 1926, and \$2,275,000 on or before the 1st of December, 1926, and \$2,000,000 plus accrued dividends on \$2,000,000 Seven Percent Cumulative Participating Preference. That latter was a small item, and was merely for the purpose of equalizing the dividends on the preferred stock.

THE COMMISSIONER: By the way, there is nobody here representing this company, is there?

MR. McNEIL: No, Mr. Forsyth said that he had to go away to the West Indies. I told him that all I had to say in reference to his company was in the brief previously, and he said he would submit anything he had to say in answer in writing. I go on to say in the brief:

"In consideration of these payments, the Company agreed to issue 72,000 Preference Shares and 233,800 no par value Common Shares.

Subsequently the Company issued to Canceled Limited, a further 18,000 shares of Preference Stock and 16,200 shares of Common Stock, for which it received \$2,196,000 in cash.

The Company, therefore, received for stock issued under this agreement \$8,746,000 in cash and set up on its books a value for goodwill, patents and process, of \$1,234,500, making a total of \$9,980,500, which was offset by the par value of the Preferred Stock issue of \$9,000,000...."

So your Lordship will see that of the total \$9,980,500 there was \$8,746,000 received in cash; Preference stock was issued for \$9,000,000, of which about \$2, \$1,234,500 was for goodwill and patents. There were also certain inventions which the inventors agreed to assign, also certain benefits under an agreement with the Town of Drummondville.

The Company, I think it is fair to say, is owned and controlled from abroad. There is an interlocking between the English Company and the American Company that is not very clear. Of the ten directors, three reside in London England, two in Montreal and four in the City of New York. I quote again from the brief:



"In consideration of these payments, the  
and \$55,800 no par value common shares.  
Subsequently the Company issued to General  
limited, a further 10,000 shares of  
Preference Stock and 15,000 shares of common  
stock, for which it received \$2,150,000 in cash.  
The Company, therefore, received for  
stock issued under this agreement \$2,745,000  
in cash and set up on its books a value for  
the same of \$2,745,000, making a total of \$2,745,000, which was  
offset by the par value of the preferred stock  
issue of \$2,000,000...."

So your location will be that of the total \$2,745,000,  
there was \$2,745,000 received in cash; Preference  
stock was issued for \$2,000,000, of which about  
\$1,500,000 was for goodwill and patents. There  
were also certain inventions which the investors  
agreed to assign, also certain rights under an  
agreement with the town of Brimfieldville.

The Company, I think it is fair to say, is owned  
and controlled from abroad. There is an interesting  
fact is not very clear. Of the ten directors,  
there were in London two and, two in London of  
New York. I chose eight from

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"For the seven years ending 31st December 1935, the Company had net profits from operations amounting to \$6,586,626.36 and \$1,062,114.22 revenue from outside investments."

5 That revenue from outside investments, according to my recollection, was derived in large part in the early days of the Company when the money was transferred to the Company for the shares but had not been used in building plant, so that it remained  
10 in the hands of the company invested in outside investments. I go on in my brief:

"These profits have shown a great increase during the last three years of operations,  
15 the net profits from operations for the year 1935 alone being \$1,813,095.58, to which may be added a further revenue from outside investments of \$66,428.00."

20 Your lordship will see that the Company, even in a year like 1935, has been doing extremely well:

"The Company's surplus and special reserves and reserves for contingencies amounted to \$2,955,130.87. There was written off for  
25 depreciation of buildings, plant and machinery \$1,725,800, and \$1,175,100, was charged to operations for repairs to plant and machinery."

Of course, these charges to plant and machinery  
30 and to depreciation were all charged before the net profits were arrived at. The Company during the



"For the seven years ending 31st December

1935, the Company had net profits from

operations amounting to \$6,388,828.36 and

\$7,446,115.15 in 1935 and 1934 respectively.

That revenue from outside investments, according to

my recollection, was derived in large part in the

early days of the Company when the money was

transferred to the Company for the shares but had

not been used in building plant, so that it remained

in the hands of the company invested in outside

investments. I go on in my brief:

"These profits have shown a great increase

during the last three years of operations,

the net profits from operations for the year

1935 alone being \$1,813,055.28, to which

may be added a further revenue from outside

investments of \$7,446,115.15.

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year like 1935, has been doing extremely well:

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and reserves for contingencies amounted to

\$2,925,150.87. There was written off for

depreciation of buildings, plant and machinery

\$1,785,200, and \$1,175,100, was charged to

depreciation of plant and machinery.

It is to be noted that the Company has

not been able to pay dividends for the last

three years owing to the fact that the

seven years which embraced the period of Canada's  
greatest depression earned in net profits more than  
the total amount of cash invested in the Company.  
That gives a clear indication of the prosperity of  
the Company.

THE COMMISSIONER: What was the tariff duty then?

MR. McRUER: There were two items that affected  
the Company: one was the yarn item, and the other  
was the fabric item. The yarn item is dealt with  
at page 89 of my Brief. From 1930 to 1934 the  
yarn item carried rates of 25% British Preference,  
30% intermediate and 35% general, together with the  
specific duty of not less than 28 cents per pound.  
That was the minimum. In 1934 the British Preference  
was reduced to 20%, and 20 cents per pound minimum.  
In 1936 it was reduced to 5% British Preference, while  
the intermediate and general remained at 30 and 35%  
respectively.

THE COMMISSIONER: There is no specific duty under  
the British Preference.

MR. McRUER: No specific duty under the British  
Preference.

THE COMMISSIONER: Just 5% ad valorem?

MR. McRUER: Yes, my lord. According to the  
evidence the most likely competition at the present  
time would come from the Netherlands or Italy or  
Japan, but I do not think they are particularly  
threatened with yarns from Japan at the present time



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That gives a clear indication of the prosperity of  
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THE COMMISSIONER: What was the tariff duty then?  
MR. MONROE: There were two items that affected  
the company: one was the yarn item, and the other  
was the fabric item. The yarn item is dealt with  
at page 89 of my brief. From 1930 to 1934 the  
yarn item carried rates of 25% British Preference,  
30% intermediate and 35% general, together with the  
specific duty of not less than 50 cents per pound.  
That was the minimum. In 1934 the British Preference  
was reduced to 20%, and 50 cents per pound minimum.  
In 1935 it was reduced to 25% British Preference, while  
the intermediate and general remained at 30 and 35%  
respectively.

THE COMMISSIONER: There is no specific duty under  
the British Preference.  
MR. MONROE: No specific duty under the British  
Preference.

THE COMMISSIONER: Just 25% ad valorem?  
MR. MONROE: Yes, my lord.  
According to the  
evidence the most likely competition at the present  
time would come from the Netherlands or Italy or  
Japan, but I do not think the Japanese are  
threatened with yarns from Japan at the present time.

because I do not know that there is any evidence that the Japanese make acetate yarn. But whatever the case may be, the artificial silk yarns which they make are not of a quality that seriously competes with Canadian yarn at the present time, but the Courtaulds people have expressed apprehension that the Japanese might in the future make yarns that would compete.

THE COMMISSIONER: You say that the competition in acetate yarns come mainly from the Netherlands and Italy?

MR. McRUER: From the Netherlands and Italy.

THE COMMISSIONER: Not from Great Britain?

MR. McRUER: Not from Great Britain. There is an interlocking control by these companies, and there has been very little come in except what has been brought in by Courtaulds themselves. The quantity that has come in from Great Britain since the duty was reduced to 5% has not been large.

In the illustration that we give in the brief we show the penalty which the consumer pays in respect to yarns from the Netherlands, for instance. There was some evidence in Montreal about some yarns from Italy. Of course, the situation with regard to Italy is complicated to a certain extent by determining what the price for home-consumption is, due to the peculiar economic set-up in Italy, where the industries are more or less subsidized for export purposes. T

THE COMMISSIONER: So far as their fabrics are



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Canadian yarn at the present time, but the Continental  
people have expressed apprehension that the Japanese  
might in the future make yarns that would compete.  
THE COMMISSIONER: You say that the competition  
in acetate yarns come mainly from the Netherlands  
and Italy?  
MR. MONTGOMERY: Yes, and Germany and Japan.  
THE COMMISSIONER: Not from Great Britain?  
MR. MONTGOMERY: Not from Great Britain. There is  
an interlocking control by these companies, and there  
has been very little come in except what has been  
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economic set-up in Italy, where the industries are  
more or less subsidized for export purposes. T  
THE COMMISSIONER: So far as their fabrics are

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concerned they are the same as the other manufacturers'.

MR. McRUER: Yes, the fabrics are the same, and the rates are 30% British Preference, 40% Intermediate and 45% General, with 40 cents a pound specific under the Intermediate and General tariffs.

THE COMMISSIONER: What page is that?

MR. McRUER: Page 92, my lord.

(Page 14325 follows)



12117

...they are the same as the other manufacturers.  
MR. McRURER: Yes, the fabrics are the same, and  
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and 45¢ General, with 40 cents a pound specific under  
the Intermediate and General tariffs.  
THE COMMISSIONER: What page is that?  
MR. McRURER: Page 92, my lord.

(THE JURY DELIBERED)

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Now, exhibit 1201 shows that in the years 1934 and 1935 the net profits on operations to sales were 25.56% and 23.8% respectively. Now, in regard to net profits on sales, net profits on operations to sales, where it is referred to throughout this brief, my friend, Mr. Kellock, has made an observation that these are arrived at before bank interest on loans, and that observation is quite correct. He takes a certain amount of offence from the word "net profits", and as far as I am concerned I want it clearly understood that there is not intended to be any particular magic or significance in that word, but we have to do this --

THE COMMISSIONER: Is that the only item that Mr. Kellock referred to as being unfair, bank interest?

MR. McRUER: He had some others. Now, I think if there were some cases where he might have had any ground of complaint, I think he probably misunderstood them because I think he thought we had not taken bond interest --

THE COMMISSIONER: That is what he said; he said bond interest.

MR. McRUER: I think he had misunderstood this, that we had taken bonds in as capital invested in the business, and then we are strictly correct in taking it as net profit on capital invested because we have got to do this if we are going to compare this, we have got to have some unit of financing. Take the net profit on sales; if one company finances on money borrowed from the bank and another finances more



Now, Exhibit 1901 shows that in the years 1934 and 1935 the net profits on operations to sales were 25.50% and 25.3% respectively. Now, in regard to net profits on sales, not profits on operations to sales, where it is referred to throughout this brief, that these are arrived at before bank interest on loans, and that observation is quite correct. It takes a certain amount of offense from the word "net profits", and as far as I am concerned I want it clearly understood that there is not intended to be any particular magic or significance in that word, but we have to do this --

THE COMMISSIONER: Is that the only item that Mr. Kellock referred to as being unfair, bank interest? MR. MORTIMER: He had some others. Now, I think if there were some cases where he might have had any ground of complaint, I think he probably misinterpreted them because I think he thought we had not taken bond interest --

THE COMMISSIONER: That is what he said; he said interest. MR. MORTIMER: I think he had misinterpreted this, if we had taken bonds in as capital invested in the business, and then we are strictly correct in saying it is not profit on capital invested because we have got to do this if we are going to compare this, we have got to have some unit of financing. This is the only way to do it; if we compare financing of one business with the financing of another business, we must have some unit of financing.

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or less on common stock issued the net profit on sales of the one company may be 10%; the net profit on sales without bank interest would be 10%, but if the other fellow paid his bank interest he would probably only have 4%, but it is the profit on sales that is important to the consumer.

THE COMMISSIONER: That is what you refer to here?

MR. McRUER: That is what I refer to.

THE COMMISSIONER: The net profits on operations to sales.

MR. McRUER: Yes, and that is actually what it means, and the same thing on capital invested in the business. My friend, Mr. Kellock, in another place criticized us on that ground. That is my recollection of his brief, but I think he did not understand it because we are attempting to bring it all to the one unit of financing.

THE COMMISSIONER: Your point is this that if your capital is borrowed of course you have to pay interest to those you borrowed it from, and that does not modify the result to the consumer.

MR. McRUER: No; how you run your capital structure of your business cannot be taken into consideration in the results to the consumer.

THE COMMISSIONER: If you borrow your capital and make 10% profits, and have to pay 6% to your lender you only remain with 4% but at the same time you have made 10%.

MR. McRUER: Yes, that is the whole point, and besides it is not fair to a company that may do business on investor's capital unless you do that, because



...the fact that the...  
...of the...  
...at least...  
...fellow paid his bank interest he would probably only  
...have 4%, but it is the profit on sales that is important  
...to the consumer.  
THE COMMISSIONER: That is what you refer to here?  
MR. MURPHY: That is what I refer to.  
THE COMMISSIONER: The net profits on operations to  
sales.  
MR. MURPHY: Yes, and that is actually what it means  
and the same thing on capital invested in the business  
...on that ground.  
...but I think he did not understand it because we are  
attempting to bring it all to the one unit of financial  
THE COMMISSIONER: Your point is this that if you  
...in those you pointed it from, and that does not mean  
the result to the consumer.  
...in the results to the consumer.  
...and have to pay 8% to your lender for  
...the results to the consumer.  
...the results to the consumer.

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with a common stock investment only then his profits show away up while the other fellow who does business on a small capital investment by investors, but borrows money from the bank, there is a lesser net profit on sales. For instance, if his profit was \$100,000, and the one fellow had a straight common stock investment and borrowed no money from the bank he would have \$100,000 which might mean 10% on sales. On the other hand, another company, taking the same amount, \$100,000, only had \$10,000 investment in common stock and borrowed the rest from the bank. He would take the bank interest out and probably would show only 6% profit on sales. Well, that would not be a fair comparison, so we have tried to reduce it from a consumer's point of view of the profit on sales, and they can finance it any way they like, and if, for the purpose of clarity, if the word "net" might deceive anybody it may be deleted <sup>the</sup> all/way through this brief in respect to profit on sales, because I don't want in any sense to deceive anyone in respect to what we mean.

THE COMMISSIONER: Your explanation is clear. You can proceed now.

MR. McRUER: So that we give then, this company's earnings in 1934 and 1935 and these, after all, are particularly for the purpose of comparing one year with another because I may say this, in all fairness to these companies you cannot compare one company with another that is manufacturing another sort of textile, and so on the one hand one company makes 25%



With a common stock investment only when his pro-  
show away up while the other fellow who does not  
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borrows money from the bank, there is a lesser  
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\$100,000, and the one fellow had a straight common  
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on the other hand, if he had borrowed the  
amount, \$100,000, only had \$10,000 investment in a  
stock and borrowed the rest from the bank. He would  
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only 6% profit on sales. Well, that would not be  
fair comparison, so we have tried to remove it from  
a consumer's point of view of the profit on sales,  
and they can finance it any way they like, and if  
this brief in respect to profit on sales, because I  
don't want in any sense to deceive anyone in respect

on sales and another company is making only 6% on sales. It depends entirely on how fast they turn over.

For instance, take two extreme examples. We will take

artificial silk yarn which will turn over very fast,

which is manufactured, put into the warehouse and

out to the weavers as against woven carpets. That is

a different proposition when you come to deal with

sales, because if I have \$100,000 worth of sales

and I turn them over twice a day I can do business on

very much less margin of net profit on sales than if

I have \$100 worth of sales and they turn over once a

month. So that we cannot compare one company with

another and say "well, look at what this company has

made and that company has made", unless they are making

identically the same sort of fabric, and in that way

net profit on sales in this brief has more to do with

seeing how that particular company has done over the

last ten years than comparing it with any other company

or levelling any criticism at it as to whether its

profit on sales has been excessive or not. It is only

by comparing the depression period with the pre-depress-

ion period and seeing how they got along.

On the other hand, even that isn't quite accurate

because even one company may change the character of

its output over a period of years, but we have got to

regard them in that light. The return on capital

invested by the investors, with all due humility

I submit is a very much better criterion than anything

else to know just how the people have got along that

have invested in this industry.



on sales and another company is making only 25 on sales  
It depends entirely on how fast they turn over.  
For instance, take two extreme examples. We will take  
artificial silk yarn which will turn over very fast,  
which is manufactured, put into the warehouse and  
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another and say "well, look at what this company has  
made and that company has made", unless they are making  
identically the same sort of article, and in that way  
net profit on sales in this order has more to do with  
seeing how that particular company has done over the  
last ten years than comparing it with any other company  
or juggling any criticism at it as to whether its  
profit on sales has been excessive or not. It is  
by covering the depression period with the pre-depression  
period and seeing how they got along.  
On the other hand, even that isn't quite accurate  
because even one company may change the character of  
its output over a period of years, but we have got to  
regard them in that light. The return on capital  
invested in the business, with all due humility  
I would say is a much better criterion than anything  
else in determining the value of a company.

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Then, in 1935 we see the profit on sales of this company, and the net revenue applicable to capital employed in operations was 16.6% and 17.2% respectively; that is on capital employed in operations their return during the year 1935 on the capital, their net return on the capital that they used in the operations of the business --

THE COMMISSIONER: 1934 and 1935.

MR. McHUR: Yes, my lord.

"Assuming that Canada enjoys a few years of prosperity equal to or better than that enjoyed in the year 1935, it may safely be assumed that this company, if present tariff duties are maintained, will realize extremely high profits from the consumers of Canada. Moreover the profits earned by the Company were arrived at after the payment of unusually high executive salaries."

This, I may fairly say, is not representative of the Textile industry as a whole. In fairness to, for instance, the Dominion Textile Company, whatever I may say about the return on capital originally employed, their salaries in that company, with the volume of business they do, are nothing like the executive salaries in the Canadian Celanese, and I can frankly say that as far as I have been able to study the executive salaries it is only in the cases that we have mentioned in our brief that I have any criticism to levy at them, and where I haven't criticized them I think my friends can take it that I haven't any criticism to levy. Now, take, for instance, in the year 1929





twelve parties drew \$135,283, the highest of which was \$20,000 and the lowest \$5,625. In 1930 18 drew \$178,382, nine of which were above \$10,000, the highest being \$22,500. In 1930, 20 drew \$197,106, the lowest of which was \$5,000 and the highest \$25,083. In 1932 23 drew \$226,911, the lowest of which was \$5,000 and the highest \$27,500. In 1933 22 drew \$217,156, the lowest of which was \$5,000 and the highest \$27,500. In 1934 22 drew \$247,598. Now, these are the two years that I deal with in respect to net profits on capital invested in the business and the profits on sales. The lowest of which that year was \$5,069 and the highest \$27,500. In 1935 28 drew \$294,458, the lowest of which was \$5,050 and the highest \$35,023. In the year 1935 seven parties drew in salaries \$148,063. In this year \$72,280 was paid in salaries to directors of the company resident outside of Canada. For the period of seven years the mill wages amounted to 33% of the sales. For the same period the salaries amounted to 4.4% of the sales and the net profits 23.8% of the sales. So that you get there 28.2% of the sales which are accounted for in salaries and net profits as against 33% for wages divided among all mill workers. Well, from an economic point of view --

THE COMMISSIONER: About how many mill workers are there?

MR. McRUER: I can answer that.

MR. DIXON: 2200, I think, Mr. McRuer.

MR. McRUER: I think it is in Mr. Beauregard's brief.



twelve parties drew \$135,382, the highest of which was  
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\$178,382, nine of which were above \$10,000, the highest  
being \$22,500. In 1930, 20 drew \$127,108, the lowest  
of which was \$5,000 and the highest \$25,000. In 1932  
28 drew \$226,911, the lowest of which was \$5,000 and  
the highest \$27,500. In 1932 22 drew \$217,156, the  
lowest of which was \$5,000 and the highest \$27,500.  
In 1934 22 drew \$247,328. Now, these are the two years  
that I deal with in respect to net profits on capital  
invested in the business and the profits on sales.  
The lowest of which that year was \$5,000 and the highest  
\$27,500. In 1935 22 drew \$204,458, the lowest of which  
was \$5,000 and the highest \$25,000. In the year 1936  
seven parties drew in salaries \$148,000. In this  
year \$73,880 was paid in salaries to directors of the  
company resident outside of Canada. For the period  
of seven years the mill wages amounted to 32% of the  
sales. For the same period the salaries amounted to  
4.4% of the sales and the net profits 28.2% of the sales.  
So that you get there 28.2% of the sales which are  
accounted for in salaries and net profits as against  
for wages divided among all mill workers. Well, from  
an economic point of view --

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THE COMMISSIONER: 2100, Mr. McRuer.

MR. McRUER: 2100, Mr. Beauregard agrees, and these very high salaries that are paid that go abroad, one cannot feel that there is a great deal of direct management that is given to the mill in Canada by those who are resident outside of Canada. It may be very nice and interesting for them to have a salary of that sort from an industry in Canada, but when we come to deal with another aspect of it, and that is the tariff protection it has and the monopolistic aspect, in view of its treatment of the Canadian weavers, which I will deal with later under the heading of trade organization and monopolies and combinations, I think that there is a pretty strong case made out for a reduction of customs duties under the intermediate and general tariff so that the Canadian weavers may get acetate yarns from other countries in order that their business may be assisted, and that this monopoly cannot retain almost complete control of the acetate business in Canada. Your lordship will recollect that there is practically -- I don't think there is any evidence of any Canadian weaver being able to weave acetate cloths in competition with the Celanese company.

THE COMMISSIONER: Do you mean they are not weaving acetate cloths?

MR. McRUER: No. They use some of it, they import some small part for mixtures of a sort, but I am going to deal specifically with that correspondence that took place. Representations are made how the





Canadian weavers tried to get acetate yarn and were  
unable to do so at prices that were commercially profit-  
able, and even though they could import it at prices  
lower than the prices quoted to them by Canadian  
Celanese yet if they paid the tariff, customs duties,  
and laid them down still they could not weave them so  
as to compete with the woven fabric of Canadian Celanese,  
and I have something to say about their costs which I  
probably will have to deal with privately, but their  
margin looks pretty good yet notwithstanding any  
tariff reductions that they have had. I deal with the  
monopolistic aspect in a later stage of the brief.

Now, I come to the viscose yarns. The only makers  
of these yarns in Canada, of course, are Courtaulds of  
Cornwall. This company was organized as a branch  
of the English Company in the first place, and later  
was incorporated as a Canadian company.

THE COMMISSIONER: Pardon me, Mr. McRuer, before  
you go into that, before you leave the Celanese Com-  
pany, the last paragraph on page 122, there is no  
mistake there, is there, in those figures?

MR. McRUER: No, my lord.

THE COMMISSIONER: "For every \$33.00 that went to the  
wage earners, \$28.20 went to the higher salaried  
employees"?

MR. McRUER: "Or the investors".

THE COMMISSIONER: Oh yes, I just saw the word  
"employees" there.

MR. McRUER: They are not quite as bad as that, my  
lord. In 1924 Courtaulds opened a branch for the



unable to do so at prices that were commercially profitable, and even though they could import it at prices lower than the prices quoted to them by Canadian Celanese yet if they paid the duty, they would not have them so and laid them down still the same. They could not have them so as to compete with the woven fabric of Canadian Celanese. They would have to deal with privately, but their margin looks pretty good yet notwithstanding any tariff. It is a later stage of the tariff. Now, I come to the viscose yarns. The only reason of these yarns in Canada, of course, is the fact that this company was organized as a branch of the English Company in the first place, and later was incorporated as a Canadian company. THE COMMISSIONER: Pardon me, Mr. McGeer, before you go into that, would you look at the Japanese Company, the last paragraph on page 182, there is no mistake there, is there, in those figures? MR. McGeer: No, my lord. THE COMMISSIONER: Oh yes, I just saw the word 'yes', there.

manufacture of rayon yarns in Cornwall and in 1928 the Canadian company was incorporated. On the 31st of August, 1928 for a consideration of \$3,551,000 there was issued 25,000 six per cent non cumulative preferred shares of \$100.00 each, \$2,500,000 -- that is the total amount of that -- and 35,000 common shares of \$100.00 each. The difference of \$2,448,915.50 was charged in the books of the company to goodwill, patents and trade marks.

Now, in May, 1931, there was a further stock issue, and then in December, December 2, 1933, there was a change in the capital set-up. I don't think I need to go into the details except to say that \$2,448,915.50 was carried as goodwill, and to that extent the share capital was represented by that asset. The total cash investment in the company amounted to \$5,551,000. Now, of that cash investment in the company a considerable portion of it was cumulative profit that had been made in the business.

THE COMMISSIONER: Just a minute; you say the total cash investment was how much?

MR. McRUER: \$5,551,000, but a large part of that -- and I deal with it later on -- was made out of the profits realized in the years 1926 and 1927. The amount was \$1,245,000, profits that were made in those two years but not drawn out by the English company. They were made in the branch here. Since the company commenced operations in 1926 the total profits before depreciation amounted to \$10,485,000. I deal with depreciation specifically later. The



of August, 1928 for a consideration of \$2,551,000  
there was issued 25,000 six per cent non cumulative  
preferred shares of \$100.00 each, \$2,500,000 -- that  
is the total amount of that -- and \$5,000 common  
shares of \$100.00 each. The difference of  
\$2,445,915.50 was charged in the books of the company  
to goodwill, patents and trade marks.  
Now, in May, 1921, there was a further stock issue  
and then in December, December 2, 1925, there was a  
change in the capital set-up. I don't think I need  
to go into the details except to say that \$2,445,915.50  
was carried as goodwill, and to that extent the  
share capital was represented by that asset.  
The total cash investment in the company amounted to  
\$2,551,000. Now, of that cash investment in the  
company a considerable portion of it was cumulative  
profit that had been made in the business.  
THE COMMISSIONER: Just a minute; you say the total  
cash investment was how much?  
MR. MONROE: \$2,551,000, but a large part of that  
and I deal with it later on -- was made out of the  
profits realized in the years 1926 and 1927. The  
amount was \$1,245,000, profits that were made in the  
two years but not drawn out by the English company.  
They were made in the branch here. Since the  
company's operations in 1926 the total  
will be about \$1,245,000, and the total  
I don't think I need to say more.

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company during that period has charged to depreciation \$4,553,000 leaving a net profit after depreciation of \$5,931,000 or 17% on sales. During the same period they charged to operations for repairs to buildings and machinery \$1,836,000 so your lordship will see that while the company was making a very handsome return and taking care of depreciation it was charging to operations a large sum of money for repairs to buildings and machinery which I take it would keep the company in a very up to date position notwithstanding the depreciation written off.

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" During the years 1926 and 1927, and up until September, 1928, when the business was carried on as a branch of the English Company, the net profits realized amounted to \$1,245,739. This was credited to the English Company and invested in the capital stock of the Canadian Company."

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That is, that on the books they credited that amount of profit and invested it in the capital stock of the Canadian company so to that extent the consumers had provided that amount of the capital in the profits earned by this company. The dividends paid to the English Company since the incorporation of the Canadian Company have amounted to \$1,564,500.--

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THE COMMISSIONER: \$1,567,500.

MR. McRUER: \$1,567,500; written off to goodwill \$1,305,000 and the balance at the surplus account, \$1,028,548.

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THE COMMISSIONER: That is as of the 31st of December,





1935.

MR. McRUER: Yes, my lord.

" The position of this Company's affairs appears to be as follows: A total investment of \$9,661,007.90

has been made in lands, buildings and machinery.

Since the Company commenced business in Canada, out of profits realized from the consumers \$4,776,980.70 has been written off to Depreciation Account.

\$1,245,739 was realized in profits by the English Company when the branch was in operation and reinvested in land, building and machinery. \$1,305,915 has been written off the Goodwill Account. The

Surplus Account is \$1,028,548, and there has been paid in dividends \$1,567,500 making a total of \$9,924,682, or \$263,674.80 more than the value of the plant before depreciation."

So that one sees just exactly what the consumers have done.

"In addition to this, it will be borne in mind that the plant has apparently been kept in a very up-to-date condition by an expenditure of \$1,836,896.25 for repairs.

The net result from the consumer's point of view is that the consumers of Canada have contributed to the British investor establishing this plant in Canada more than sufficient to pay for the whole plant in ten years of operation."

Well, that rather emphasizes the point I was making earlier this morning, and that is, what has the consumer to go on doing? How long is he to continue, independently



1908

RECEIVED: MAY 27 1908

The position of this Company's affairs appears to be as follows: A total investment of \$9,601,000 has been made in lands, buildings and machinery. Since the Company commenced business in Canada, out of profits realized from the consumers \$4,775,900 has been written off to Depreciation account. \$1,242,730 was realized in profits by the English Company when the branch was in operation and reinvested in land, building and machinery. \$1,208,31 has been written off the Goodwill account. The surplus account is \$1,008,548, and there has been paid in dividends \$1,507,500 making a total of \$2,924,682, or \$282,874.80 more than the value of the plant before depreciation."

So that one sees just exactly what the consumers have done. In addition to this, it will be seen in what the plant has apparently been kept in a very up-to-date condition by an expenditure of \$1,636,600.25 for repairs.

The net result from the consumer's point of view is that the consumers of Canada have contributed to the British investor establishing this plant in Canada more than sufficient to pay for the whole plant. It is not only sufficient to pay for the whole plant, but it is sufficient to pay for the whole plant and to leave a surplus of \$1,008,548. This surplus is the result of the consumers of Canada having paid for the plant and for the repairs to the plant, and that is, what has the consumer done? The consumer has paid for the plant and for the repairs to the plant, and that is, what has the consumer done?

altogether of this fact, that when we come to study the tariff situation before 1930 with what it is now, and what it ought to be, the profits that were made under the lower tariff item, how the company has been carried straight through the worst depression,--and many of us wish we had been carried through in the way that these companies have been,-- then, when we go on from here are we to have the same standard for the future as was the standard set for the emergency of the depression. If we are to go on forever then it looks to me that it is a bit unjust for the consumers who must pay.

" In considering the net profits of Courtaulds (Canada) Limited, it must be borne in mind that this Company has written off a very large amount for depreciation and has charged against profits extraordinarily large sums for repairs."

Now, I give here a table that is comparative between Courtaulds and Canadian Celanese. Now, in comparing them we have got to bear this in mind that although they are both artificial silk plants one is engaged in weaving and the other is not, and to that extent they are not comparable, because on the one hand all the investment of Courtaulds is in the manufacture of yarn whereas with Celanese a portion is in the manufacture of yarn and a portion in the weaving of yarn.

THE COMMISSIONER: Pardon me a moment; do you show here, or do you wish me to refer back to some other page -- what their tariff protection is.

MR. McRUER: It is the same as --



together of this fact, that when we come to study  
 the tariff at present before 1930 with what it is now,  
 and what it ought to be, the profits that were made  
 under the lower tariff item, how the company has been  
 affected, and the profits that were made, and  
 if we wish we had been carried through in the way that  
 these companies have been, -- then, when we go on from  
 there and we to have the same standard for the future  
 as was the standard set for the emergency of the day,  
 if we are to go on forever then it looks to me that  
 as a bit unjust for the consumers who must pay.  
 "In considering the net profits of Courtauld's  
 (Canada) Limited, it must be borne in mind that  
 Courtauld's has written off a very large amount for  
 depreciation and has charged against profits extra  
 ordinarily large sums for repairs."  
 Now, I think that is a fair statement.  
 Courtauld's and Canadian Celanese. Now, in comparing  
 them we have got to bear this in mind that although  
 they are both artificial silk plants one is engaged in  
 weaving and the other is not, and to that extent they  
 are not comparable, because on the one hand all the  
 investment of Courtauld's is in the manufacture of yarn  
 whereas with Canadian Celanese a portion is in the manufacture  
 of yarn and a portion in the weaving of yarn.  
 The question is, is it fair to say that  
 now, or do you wish me to refer back to some other  
 page -- and that will be all.  
 All right, if it is all right.

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THE COMMISSIONER: Page 89?

MR. McRUER: Page 89, yes, my lord. The investment in plant of Courtaulds is almost the same as Canadian Celanese. The average annual investment in Courtaulds is about one million dollars less than Celanese. You see, some of Courtaulds' additions were made fairly recently. The average annual depreciation over the last seven years of Courtaulds is more than twice as much as Celanese. The average amount charged to profits --

THE COMMISSIONER: Annual amount.

MR. McRUER: The average annual amount charged to profits during the seven years for repairs is \$212,500 for Courtaulds as against \$159,400 for Celanese. Now, there is a very different scale of charges for depreciation and repairs, and insofar, again, as these repairs are charged against profits but really constitute capital replacement they ought not to have both an allowance for depreciation and an allowance for capital replacement.

MR. DIXON: My lord, if my friend will excuse me; that is the first unfair thing he has said. Insofar as these repairs are replacements of capital, there is no evidence that any of them are replacement of capital. Now, my friend is not entitled to refer to it in that way.

MR. McRUER: I will put it this way; insofar as they may have been. Now, I am quite prepared to say that in this investigation we cannot go in and find what this repair and that repair is, and how far they may have been capital replacement. We only have the



THE COMMISSIONER: Page 897

MR. McNEIL: Page 89, yes, my lord.

The investment in plant of Courtland is almost the same as Canadian Japanese. The average annual investment in Courtland is about one million dollars less than Japanese. The average annual depreciation over the last seven years of Courtland is more than twice as much as Japanese. The average amount charged to profits --

MR. McNEIL: The average annual amount charged to profits during the seven years for repairs is \$212,500 for Courtland as against \$189,400 for Japanese. As these repairs are charged against profits but not both an allowance for depreciation and an allowance for capital replacement.

MR. McNEIL: My lord, if my friend will excuse me, that is the first unfair thing he has said. Insofar as these repairs are replacements of capital, there is no evidence that any of them are replacement of capital. Now, my friend is not entitled to refer to it in this way.

MR. McNEIL: I will put it this way; insofar as it has been, now, I am quite prepared to say that in this particular case we have seen that the average annual depreciation over the last seven years for repairs is more than twice as much as Japanese. The average amount charged to profits --

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effect with the depreciation, with a very large sum for repairs charged and with the profits as they are; there is the whole picture. Now, whether the repairs are capital replacement is more a matter for the Income Tax Department than it is for us, and I presume that they deal with that matter, and whether it is dealt with or not I don't know, but I am not saying that there is the slightest evidence; as far as this Commission is concerned it is neutral on that subject. However, that is the picture, that I make a comparison between the two companies where the one has very much heavier depreciation than the other, and a very much heavier repair bill.

But, on the other hand, I have a comment to make which I am sure my friend, Mr. Dixon, will not disagree with, and that is in respect to the executive salaries of Courtaulds. The salaries paid to executives of Courtaulds were on a very much lower scale than the salaries paid to executives of Canadian Celanese.

"The total salaries amounted to an average of 1% of sales during the last ten years".

Now, your lordship will notice what a very great difference that is.

THE COMMISSIONER: That is as against 4.4?

MR. McRUER: 4.4% on sales, and not only that but Courtaulds selling a raw material and Celanese selling a finished fabric where the prices of the sales, the sales dollar, is up a great deal higher than it is on raw material; so it is quite a contrast.

"It may also be pointed out that during the year 1935 there were only three executives who received over



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"\$10,000 a year, and these three averaged \$13,215 and were all full time executives resident in Canada, while the three highest paid executives of Canadian Celanese Limited received an average of \$25,880. During that year \$72,880 was paid by the latter Company to Directors and Executives not resident in the Dominion of Canada."

Now, I just give these for comparative purposes. There they are. It is a contrast. They are not exactly the same sort of companies, as I said before, but after all I think they are basically the same, and may I, in regard to the salaries that are paid in Canadian Celanese, emphasize what very high profits were made. I am starting now on the cotton division --

THE COMMISSIONER: We will take a few minutes off.

-- The commission adjourned for a short recess.

(page 14345 follows)



[illegible]

On resuming:

MR. MORUER: At page 127 of the brief, my  
lord, is an illustration of the life history of the  
Dominion Textile Company Limited. Perhaps we might  
run through it for a moment. The first company of  
which we have a record is the Hudon Cotton Company.  
As far as the Commission is concerned I think our re-  
cords start in 1878. This graphically illustrates  
the process of amalgamation and the elimination of  
competition that has taken place. First we have the  
Hudon Cotton Company; then the Ste. Anne Company that  
amalgamated with the Hochelaga Cotton Manufacturing  
Company Limited in 1885. Then in 1889 they purchased  
the Magog Textile and Print Company; and in 1890 there  
is an amalgamation of the Windsor Cotton Manufacturing  
Company, the Nova Scotia Cotton Manufacturing Company  
Limited, the Coaticook Cotton Company Limited, the  
Moncton Cotton Manufacturing Company Limited, the  
Craven Cotton Manufacturing Company Limited, and the  
Kingston Cotton Manufacturing Company Limited with  
the Hochelaga Cotton Manufacturing Company Limited,  
so that by that time --

THE COMMISSIONER: Well, did all those be-  
come the Dominion Cotton Mills?

MR. MORUER: Dominion Cotton Mills Limited.  
By that time nine individual companies have been  
consolidated in the Dominion Cotton Mills Company  
Limited; that is, nine that originally had been in-  
dividual companies. In 1891 the Dominion Cotton  
Mills Limited purchased the Chambly Mills and the  
Slater-Winzy Mill, raising to eleven the number that



On Tuesday:

Mr. McNEIL: At page 127 of the brief, my

friend, Mr. McNEIL, has stated that the

process of amalgamation was not completed

run through it for a moment. The first company of

which we have a record is the Hudson Cotton Company.

As far as the Commission is concerned I think our re-

corde start in 1878. This graphically illustrates

the process of amalgamation and the elimination of

competition that has taken place. First we have the

first company, then the second company, then

amalgamated with the Hudson Cotton Manufacturing

Company Limited in 1885. Then in 1889 the purchase

of the second company and the third company in 1890

is an amalgamation of the Windsor Cotton Manufacturing

Company, the Hudson Cotton Manufacturing Company

Limited, the Godfray Cotton Company Limited, the

Monro Cotton Manufacturing Company Limited, the

Green Cotton Manufacturing Company Limited, and the

Windsor Cotton Manufacturing Company Limited with

the Hudson Cotton Manufacturing Company Limited.

so that by that time --

THE COMMISSIONER: Well, did all these be-

long the Hudson Cotton Limited?

Mr. McNEIL: Dominion Cotton Mills Limited.

By 1891 the Hudson Cotton Limited was the

only company in the Dominion of New Brunswick

limited, that is, the only company in the Dominion

limited company. In 1891 the Dominion was

the only company in the Dominion of New Brunswick

are now consolidated in the one company.

We next come to the amalgamation of 1905, when three more are brought in, raising it to fourteen. So that by 1905, when the Dominion Textile Company Limited was organized, it had really taken over the growth of fourteen different companies. When my friend says that there was a valuable element of an intangible nature in the elimination of competition among those companies, he is undoubtedly quite correct.

In 1910 they leased the Mount Royal Spinning Mills that had been purchased by Canadian Cottons and then leased by Canadian Cottons to Dominion Textile, and later purchased. Did the Mount Royal Spinning Company ever operate as a spinning company prior to it being sold to Canadian Cottons, or did they not buy it when it was just ready for business?

THE COMMISSIONER: It was leased.

MR. McRUER: It was leased by Canadian Cottons to Dominion Textiles, that was in 1910.

MR. GORDON: I am not just sure. It was built not only for the purpose of a spinning company but it had attached to it bleaching and printing. I believe that in 1908 it was built by one of the Whitehead company. It may have got into operation before Canadian Cottons bought it.

MR. McRUER: I am correct in this, at any rate, that it was a new plant and was built in 1908, and if it operated at all it only operated from 1908 until 1910. But it was undoubtedly a new feature on the landscape of a competitive nature, and it was acquired eventually by the Dominion Textile Company; control



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are now consolidated in the one company.

We next come to the amalgamation of 1902, when

three more are brought in, raising it to fourteen.

So that by 1902, when the Dominion Textile Company

limited was organized, it had really taken over the

growth of fourteen different companies. When my

visitors came last time saw a witness statement of

interviews given to the Commission at Ottawa in

1902, when they were, as is indicated by the

In 1910 they leased the Mount Royal Spinning

Mills that had been purchased by Canadian Cotton

then leased by Canadian Cotton to Dominion Textile

and later purchased. Did the Mount Royal Spinning

Company ever operate as a spinning company prior to

it being sold to Canadian Cotton, or did they not

it when it was just ready for business?

THE COMMISSIONER: It was leased.

MR. McNEIL: It was leased by Canadian Cotton

to Dominion Textile, that was the fact.

MR. GORDON: I am not just sure. It was

not only for the purpose of a spinning company, but

had attached to it bleaching and printing. I believe

that in 1908 it was built by one of the witnesses

company. It may have got into operation before

Canadian Cotton was built.

MR. McNEIL: I am correct in this, at any

rate it was a spinning mill and was built in 1907.

At its completion it was a spinning mill.

Then it was substantially a new factory

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was acquired in 1910. That brings fifteen companies into the organization. We come down to 1922, when there was a reorganization and recapitalization with which we will deal later. In 1929 they acquired the Drummondville Cotton Company Limited and the Sherbrooke Cotton Company Limited, -- which brings seventeen companies into the amalgamation. Of course the Sherbrooke Cotton Company, I think, at the time it was acquired by the Dominion Textile Company had ceased to operate as an operative unit; it was in the receiver's hands, at any rate. In addition to that, at a date that I think was 1929, if my recollection serves me properly, the Dominion Textile acquired or the company acquired a controlling interest in the Montreal Cotton Company. That is not shown on this graph.

THE COMMISSIONER: What year do you say?

MR. McRUER: In 1929. That is correct, is it not, when they ultimately got the fifty per cent control?

MR. GORDON: I do not think so. I do not know the date when they went over the fifty mark. I do not think it was at that particular date. It had not got to that stage in 1929.

MR. McRUER: At any rate we will say, between 1928 and 1930. I do not think the precise date is material. At any rate they acquired over fifty per cent of the control of Montreal Cottons, and that gave them control over the Montreal Cottons although they did not own the whole stock and there has not been to date an amalgamation.

THE COMMISSIONER: But they still control it?



was acquired in 1930. That being the case, it is not shown on this graph.

THE COMMISSIONER: What year do you say?

MR. McRURR: In 1939. That is correct, is it?

MR. GORDON: I do not think so. I do not know the date when they went over the fifty mark. It is not shown on this graph.

MR. McRURR: At any rate we will say, between 1938 and 1939. I do not think the precise date is material. At any rate they acquired over fifty per cent of the stock of the company, and that is the date when the Montreal Cotton Company was acquired and there has not been a date set for the stock and there has not been a date set for the stock.

THE COMMISSIONER: But they still control

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Mr. McRUER: They still control it.

THE COMMISSIONER: And the Montreal Cottons is not mentioned here?

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MR. McRUER: No.

THE COMMISSIONER: Are there any other companies in that position, -- controlled by the Dominion Textile and not mentioned here?

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MR. McRUER: Not that I know of. The Industrial Specialty Manufacturing Company -- but they do not manufacture textiles, they manufacture supplies for textile mills, wooden supplies.

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In the factum of the Montreal Cotton Company it is pointed out that 16,443 shares, representing 54.8 per cent of the issued common shares of the Montreal Cotton Company, are owned by the Dominion Textile Company Limited. That is their share of the ownership.

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So we have now eighteen companies, some of which were large and important, others smaller ones, that have gradually come within the control of the Dominion Textile Company Limited; seventeen of which are under the direct ownership of the Dominion Textile Company Limited, and 54 per cent of the other under its ownership.

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I have set out in my brief extracts from the minutes of the constituent companies of the Dominion Textile Company Limited, starting with the Hudon Cotton Company for the purpose of giving somewhat of a chronological history, accurately stated, from their minutes, so that it is on record to show how this company has developed in the economic life of Canada. It is at

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Mr. McNair: They still control it.

THE COMMISSIONER: And the Montreal Cottons is

mentioned here?

THE COMMISSIONER: And there are other companies

and not mentioned here?

Mr. McNair: Not that I know of. The Industrial

Specifically Montreal Cottons Company -- but they do not

produce textiles, they manufacture supplies for textile

mills, wooden supplies.

It is known at the Montreal Cottons Company

is pointed out that 18,448 shares, representing 54

per cent of the total shares of the Montreal

Cottons Company, are owned by the Montreal Cottons

Company. That is what is meant by the statement.

As an agent for the Montreal Cottons Company, and as

were large and important, others smaller ones, that

gradually come within the control of the Dominion

the Government limited; whereas of which are under

direct ownership of the Dominion Textile Company is

and 24 per cent of the other under its ownership.

I have set out in my brief extracts from

minutes of the Dominion Textile Company of the Dominion

Textile Company, Ltd., showing that the Dominion

Textile Company has the purpose of giving assistance to a

Textile Company, Dominion Textile, Ltd., from time to

time to time to assist in the Dominion Textile

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at the moment, my lord, but -- if your lordship cared  
to make a cross-reference at page 127 -- at page 163  
is a record of the stock inflation that has taken place  
in this process of amalgamation, and that is important  
5 when we come to consider what has happened in the nature  
of the dividends that have been paid to the investors.  
For instance, by way of illustration: In the year 1878  
a stock bonus of 33 per cent was issued in the Hochelaga  
Cotton Company. Having got a tariff protection and  
10 having paid dividends at the rate of 10 per cent and  
then created a stock bonus of 33 per cent they paid  
dividends on the increased share capital, and then that  
is gone on and split again; we see how it pyramids.  
I wish for a few moments to more or less recapitulate  
15 the history of these companies.

The dividend in 1878 was 10 per cent.

THE COMMISSIONER: You are back to what page?

MR. McRUER. Page 128, my lord. In that year  
there was a stock bonus of 33 per cent, increasing the  
20 capital to \$403,000. That stock bonus amounted to  
\$100,000. Then in 1881 and 1882 dividends were paid  
at 10 per cent on the increased capitalization. In  
1883 there was a small stock bonus of \$15,000, and then  
25 by by-law on the 9th February, a stock bonus of \$420,000  
was authorized, \$180,000 from the capital stock in the  
treasury and \$240,000 to be out of the increased capital  
stock that was to be provided by supplementary letters  
patent. I deal with that all at page 163, and possibly  
30 it would save time if I went directly to it at the  
moment, so that we shall have --





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THE COMMISSIONER: What does that mean then? You are going to deal now with the matters that are set out in page 163?

5 MR. McRUER: Page 163: that is the bonus stock, if I might call it that, or stock bonuses that were issued from time to time, either directly as stock bonuses or arising out of amalgamation.

THE COMMISSIONER: Alright, go on.

10 MR. McRUER: At the first paragraph of 163:

"The first record of the Hudson Cotton Company Limited commenced in 1878, and shows that the company paid a dividend of 10 per cent on its outstanding common stock".

15 THE COMMISSIONER: "At that time".

MR. McRUER: "At that time".

"In 1880 a stock bonus was declared of one share for every three held".

20 MR. HEWARD: When you say "first records" you mean the first records that are available now?

MR. McRUER: For the Commission, yes. There are four years that we were not able to locate. That is quite a natural thing.

25 "In 1880 a stock bonus was declared of one share for every three held. Cash dividends on the increased capital were paid at the rate of 10 per cent per annum, which would be at the rate of 13-1/3 per cent on the original capital. In 1883 a further stock bonus was declared of one share for every one held. The effect of this was that in 30 five years a shareholder who had three shares of



THE COMMISSIONER: That does not mean that I  
am going to have any of the matter that I am not  
in any way

MR. McHUGH: Page 155: that is the bona fide  
it is right only in fact, it does mean that one  
leaves from the fact, either directly or indirectly  
cases or staying out of the fact.

THE COMMISSIONER: All right, go on.

MR. HARRIS: At the first meeting of 1881

"The first meeting of the Board of Education

which was held in 1878, and during that time

there was a division of opinion as to the

status of the common stock."

THE COMMISSIONER  
"At that time"

"In 1960 a stock bonus was declared of one share

it is quite a natural thing.

are four years that we were not able to locate.

Dr. Barker: For the investigation, the

and were the first persons that we wanted to find

Dr. Barker: That was the first person

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... The effect of this was that  
a further stock bonus was declared of one share  
25-1/2 per cent on the original capital. In  
cent per annum, which would be at the rate of  
... which would be at the rate of  
... 25-1/2 per cent on the original capital. In  
... a further stock bonus was declared of one share

14351

"the original issue now had eight.

When the company amalgamated with La Compagnie de Filature Ste. Anne Limitee, the shareholders of the old Hudon company received share for share in the new company, Hochelaga Cotton Manufacturing Company Limited."

That was the new one that was formed.

"Dividends were paid in 1885 at the rate of 6 per cent, 1886 at 10 per cent; 1887 at 10 per cent; 1888 at 10 per cent on the outstanding capital stock. The dividends for these last three years would be at the rate of 22-2/3 of the original investment."

That is just to show, in view of the increases in the capital stock, that although the dividends may look modest on the stock outstanding, they are generous on the capital investment originally and the building up of a surplus all the time.

"Hochelaga Cotton Manufacturing Company Limited purchased the Magog Textile and Print Company Limited works in 1899".

I do not recollect whether in that instance the money to provide for that purchase came out of surplus or whether there were additional funds put in when the Hochelaga Cotton Company was organized.

"...and the business of those two companies absorbed in the business which took place on the organization of the Dominion Cotton Mills Company Limited in 1890".

That is not quite right; there is something wrong there.



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"the original issue now had eight.

When the company amalgamated with La Compagnie  
de Filature Ste. Anne Limited, the shareholders of  
the old Indian company received shares for shares in  
the new company, Hochelaga Cotton Manufacturing  
Company Limited."

That was the new one that was formed.

"Dividends were paid in 1885 at the rate of 5 per

IT IS THE POLICY OF THE FBI TO MAINTAIN THE RECORDS OF THIS AGENCY

1968 at 10 per cent on the outstanding capital stock. The dividend for these last three years would be at the rate of 25-2/3 of the original dividend.

of a surplus all the time.

to provide for that purpose some out of surplus of  
profits. There were no other provisions in the law  
relating to the new company was organized.

...and the business of those two companies  
described in the business which took place on the  
...  
...in 1950.

14352

THE COMMISSIONER: The second time the word "business" occurs it means merger or amalgamation?

MR. McRULK: Yes. We might put the word "merger" there. There is some mistake in transcription.

"At the time of the amalgamation it was stated to the special general meeting of shareholders:

'It has been urged by some of our friends that this would be a good time to make an extra distribution of stock, or in other words to give a stock bonus. Although our position would fully warrant this we deemed it wiser to pursue a conservative policy and allow the new company to be in operation for a year'

"The agreement of sale provided that \$1,277,000 of unassessable stock in Dominion Cotton Mills Company Limited be distributed to the shareholders of Hochelaga Cotton Manufacturing Company Limited pro rata, and that a stock bonus might be paid by Dominion Cotton Mills Company Limited not to exceed the difference between the price of purchase and the net actual value of the company's properties and assets.

Bonds were issued in payment of the purchase price of all the other amalgamated companies.

In 1892 the capital of the company was increased by \$250,000 and the stock offered to shareholders at par in proportions of one to six.

In 1892 Dominion Cotton Mills Company Limited carried out the terms of the agreement with Hochelaga Cotton Manufacturing Company Limited,



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THE COMMISSIONER: The second time the word

was used in the same sense as in the first

was used in the same sense as in the first

was used in the same sense as in the first

At the time of the amalgamation it was stated to

the special general meeting of shareholders:

'It has been urged by some of our friends that

this would be a good time to make an extra dis

tribution of stock, or in other words to give

stock bonus. Although our position would be

warrant this we deemed it wisest to pursue a

conservative policy and allow the new company

to be in operation for a year.

The statement in this connection was that

of unnecessary stock in Dominion Cotton Mills

was being issued in connection with the

of Rockledge Cotton Mills in the Company limited

pro rata, and that a stock bonus might be paid

Dominion Cotton Mills Company limited not to ex

ceed the difference between the price of purchase

and the net actual value of the company's pro

porties and assets.

There were issued in payment of the expenses

of all the shares mentioned in the

in the capital of the company and in

of the company and in the capital of the

at par in proportions of one to six.

In 1922 Dominion Cotton Mills Company limited

was formed and the terms of the agreement with

the Dominion Cotton Mills Company limited

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"which recited, that all assets of Hochelaga Cotton Manufacturing Company Limited were valued at \$2,668,168.24 and were purchased for \$1,277,000 by issue of stock, with the agreement to issue a stock bonus for the difference. \$1,517,700 in capital stock of the company was, therefore, issued unassessable up to 90 per cent. The effect was that the stock bonus amounted to \$1,365,930, which practically equalized the difference between the value placed upon the assets of Hochelaga Cotton Manufacturing Company Limited and the amount paid therefor by way of stock issue".

MR. HEWARD: Would you mind explaining what you mean by "was therefor issued unassessable up to 90 per cent"? Ninety per cent of what?

MR. McRUER: Ninety per cent of the stock that was previously outstanding. It amounted to a stock bonus of 90 per cent. The balance was subscribed in cash.

THE COMMISSIONER: Is that what you say? Just a minute. A stock bonus of 90 per cent?

MR. McRUER: Yes, my lord. The stock bonus amounted to \$1,365,930.

THE COMMISSIONER: And it was unassessable up to 90 per cent?

MR. McRUER: And the balance was paid for in cash.

THE COMMISSIONER: Ten per cent?

MR. McRUER: Ten per cent.

MR. HEWARD: Oh, I see.





14354

MR. McRUER: That brings us up to 1892. We see how the roots of this tree grew more or less, and it has a real bearing on the subject that I have to discuss, that is, how far the consumer, after providing these very strong roots, and those roots being broken up from time to time, should go on again providing roots, and on, and on. It is a problem one has to face. Here is the fact of what has been done in this case, at any rate; we will discuss the problem later. The net result of this was that --

"For every three shares that a shareholder held prior to 1878 he would now hold 15.20 shares, or, on \$300,000 invested prior to 1878 there was now realized \$1,520,000 in shares in the Dominion Cotton Mills Company Limited, and the dividends had been paid in the meantime."

And those dividends were rather generous, I think. And when we come to consider the amount of dividends and compare them with the wages that were paid back in some of these periods, we shall find in what kind of soil the tree grew.

"Dominion Cotton Mills Company Limited paid dividends in 1890, 1891 and 1892, of 10 per cent on the outstanding capital."

That is, on this capital in which the shares had been increased in this way. It is not on the money invested but on the outstanding capital stock.

"In 1893 dividends were paid at the rate of 8 per cent, but it will be noted that this is 8 per cent on a capitalization of \$3,033,600;



10034

MR. MONTGOMERY: That brings us up to 1892. We see how the roots of this tree grew more or less, and it is a real bearing on the subject that I have to discuss, that is, whether the company, after paying the very large sum, and those roots being taken out of time to time, should go on again providing roots, and and on. It is a problem one has to face. Here is a fact of what has been done in this case, at any rate; we will discuss the problem later. The fact is that --

"For every three shares that a shareholder held prior to 1878 he would now hold 18.80 shares, or on \$200,000 invested prior to 1878 there was now \$3,760,000 in shares in the Dominion Union Mills Company Limited, and the dividend had been paid in the meantime."

And these dividends were not given, I think, when we come to consider the amount of dividends a company pays and the reason that was paid was in some of these cases, as well as in what this will the tree grow.

"Dominion Union Mills Company Limited paid dividends in 1880, 1881 and 1882, at 10 per cent on the outstanding capital."

That is, on this capital in which the shares had increased in this way. It is not on the amount paid but on the outstanding capital stock.

"The 1882 dividend was paid at the rate of 10 per cent, but it will be noted that this was 10 per cent on a capitalization of \$3,000,000

"whereas the previous dividend was at 10 per cent on a capitalization of \$1,515,000, which would show over 40 per cent on the original investment.

Dividends were maintained at this rate for the year 1894 and until the last quarter in 1895, when it was dropped to 6 per cent on the outstanding capital."

So that we see that although dividends dropped to 6 per cent, what a really good dividend it amounted to if we take into consideration the amount of outside money that had been brought in.

"During the years 1896, 1897, 1898, 1899, 1900 and 1901, and for the first three quarters of 1902, dividends were maintained at the rate of 6 per cent on the outstanding capital."

That, again, is on this capital that is created by these stock bonuses.

"The following is a table of the profits on sales during these years:"

MR. HEWARD: Before you start on that, may I ask you from what figures they are calculated? We have had difficulty in verifying them.

MR. McRUER: Oh, from the evidence, each year. I read into the evidence "profit on sales amounting to so and so", "profit on sales amounting to so and so".

THE COMMISSIONER: Would that reference to page 5725 be near enough to give the evidence?

MR. McRUER: No, I am afraid this is taken at different pages.



14335

"...the previous dividend was of 12 per cent on a capital of \$1,212,000, which would show over 40 per cent on the original investment."

Dividends were maintained at this rate for the year 1894 and until the last quarter in 1898, when it was dropped to 5 per cent on the outstanding capital."

On May 10, 1900, the directors resolved to 5 per cent, which was a further reduction of 50 per cent on the dividend of 1898. It was also considered that the amount of outstanding capital that had been brought in,

"During the years 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, and 1901, and for the first three quarters of 1902, dividends were maintained at the rate of 5 per cent on the outstanding capital."

That, again, is an extra capital that is invested by these stockholders.

"The following is a table of the profits and sales during these years:"

MR. HEWARD: Before you start on that, may I ask you that I have had some difficulty in verifying them.

MR. BRADIE: Yes, from the evidence, and I took into the evidence "profits on sales" as an item, "profits on sales" as an item, and "profits on sales" as an item. The Commission would find reference to these items in their report to the Commission.

THE COMMISSIONER: I mean, it is in that neighbourhood?

MR. McRUER: No; there will be references to the evidence at the different pages where the proceedings of the annual meetings are read into the evidence.

1894	12 per cent
1895	11.5 per cent
1896	14.47 per cent

and so on. 1902 was the only year in which there was a loss on sales, and that immediately followed a year of the highest profit on sales. So again these percentages of profits on sales are comparative only because they depend on the volume of sales. It appears that --

"...from 1878, the first record we have, until 1905, there was only one year when business showed a loss, and the dividend record speaks for itself as to the profit earned during the other years.

The share that the worker had had in the advantages of the protective tariff during this period is indicated by the average annual wage paid per individual. From the records available, the highest average was \$277, per annum in 1888, and the lowest \$224 in 1905".

MR. HEWARD: Now, Mr. McRuér, would you tell us there where you got your figures?

MR. McRUER: Again, from the minute books, the statements read in from the minute books as we went along.

Mr. DE COTRET: Page 5726 in the evidence.

MR. McRUER: That will not be all at page 5726.



THE COMMITTEE: I mean, it is in that report

possibility?

Mr. McMillan: No; there will be reference to

the evidence of the different years where the process

of the annual meetings are read into the evidence.

1894	15 per cent
1895	11.5 per cent
1896	14.4 per cent

and so on. 1902 was the only year in which there was

a loss on sales, and that immediately followed a year

of the highest profit on sales. So again these per-

centages of profit on sales are somewhat only be-

cause they depend on the volume of sales. It appears

that --

"...from 1876, the first record we have, until

1906, there was only one year when business showed

a loss, and the dividend record speaks for itself

as to the profit earned during the other years.

The share that the worker had in the ad-

vantages of the protective tariff during this

period is indicated by the average annual profit

per individual. From the records available,

highest average was 48.77 per cent in 1886, and

the lowest was in 1907.

Mr. McMillan: Now, Mr. McMillan, would you

there where you got your figures?

Mr. McMillan: Again, from the minute books

of the various firms to read in from the minute books

Mr.

Mr. DE LOACH: Page 5723 in the evidence

that will not be of any use

14357

I think, because we must make our calculations as we go along.

MR. DE COTRET: Yew, but you start around there. You have 5714, 5726. You give the annual average salary at 5714.

MR. McRUER: I have set this out earlier in my brief.

MR. HEWARD: But this is the summation of the thing; and my question also applies to the calculation made of each year, and on what those figures are based.

MR. McRUER: Statements in the minute book, the number of employees employed and the amount paid in wages.

THE COMMISSIONER: For each year? You divided the one by the other?

MR. McRUER: Yes.

THE COMMISSIONER: It does not show how many days or hours of employment there were?

MR. McRUER: No.

THE COMMISSIONER: That is the best you can do, I suppose?

MR. McRUER: That is the best I can do. It is their record which says that. When you run along from one year to another and find the constancy and the fluctuations, I do not think it can be very far out.

THE COMMISSIONER: I suppose there is no record kept of rates of wages and so on?

MR. McRUER: We do not have any, if they have them. All I read into the record was from their minute books. I read it in and they have not taken any action



I think, because we must make our calculations as we go

MR. DE CORT: Yes, but you start around there  
You have \$714, 575. You give the annual average as

at \$714.  
MR. MARSH: I have set this out earlier in my

MR. MARSH: But this is the summation of the  
things; and my question also applies to the calculation  
made of each year, and on what those figures are based  
MR. MARSH: Statements in the minute book, the

number of employees employed and the amount paid in  
wages.

THE COMMISSIONER: For each year? You divide  
the one by the other?

MR. MARSH: Yes.  
THE COMMISSIONER: It does not show how many  
or hours of employment there were?

MR. MARSH: Yes.  
THE COMMISSIONER: That is the best you can

I suppose  
MR. MARSH: That is the best I can do. If

one year to another and find the consistency and the  
fluctuations, I do not think it can be very far out  
THE COMMISSIONER: I suppose there is no

MR. MARSH: We do not have any, if they had

All I read into the record was from their  
I read it in this way that they have not

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repudiate the accuracy of what was said in the minute books in that regard.

MR. HEWARD: We did not know you were going to make this deduction.

5 MR. McRUER: I assumed it would not be in the minute book unless it was accurate.

MR. HEWARD: I may be accurate as far as it goes, but it does not show how many hours worked, how much casual labour was there, how much short time.

10 THE COMMISSIONER: Perhaps, Mr. Heward, you will have a different light to throw on this thing when you present your statement.

MR. McRUER: But we took this right through more or less to the present time, showing the changes. That is as far as I want to deal with that portion at these pages, my lord, because I do not want to get away from the original history of the Dominion Textile, for the moment.

THE COMMISSIONER: We go back now to page 128?

20 MR. McRUER: Yes, my lord. There is one thing that I wish to impress on your lordship, and that is, during this time from the time of the operation of the Hudson Cotton Company down to the organization of Dominion Textile Company and afterwards, you will note the number of mills that were closed in this process of amalgamation and merging. It shows this, that while the company was taking advantage of the opportunities provided to it to merge these different companies for the purpose of -- or undoubtedly it was one of the purposes -- eliminating competition, that had an injurious

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MR. HOWARD: We did not know you were going to

MR. MOHRER: I scanned it would not be in the  
minutes book unless it was accurate.

MR. HEWARD: I may be accurate as far as it goes, but it does not show any more than that.

present your statement.

MR. HARRIS: But we took this right this morn-

...stimulating competition, that had an injurious  
 process of — or substantially is one of the pro-  
 vided it is in some form different conditions the  
 company are having advantage of the improved as  
 generation and mixing. It shows this, that while the  
 but we will that was placed in this process of  
 results looking and otherwise, you will note the  
 action to be compared even to the suggestion of the  
 entire this also from the time of the operation of  
 that I wish to express my thanks, and that is  
 MR. McWHIR: Yes, my lord. There is one thing  
 THE CHAIRMAN: To be sure you have said it

effect on the merged mills because a great many of them were immediately closed up.

THE COMMISSIONER: Well, it comes back to the matter you touched on the other day, of eliminating competition, I suppose -- ?

MR. McFURER: Yes.

THE COMMISSIONER: And you would also say, decreasing employment, would you?

MR. McFURER: It would undoubtedly have the effect of decreasing employment.

THE COMMISSIONER: Well, that topic had better be begun after lunch.

The Commission adjourned at 12.30 p.m. to meet at 2.30 p.m.

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JANUARY

...the merged mills became a great many of

...were immediately closed up.

THE COMMISSIONER: Well, it comes back to the

...that you would be the other way, it is interesting

...I suppose -- ?

MR. BRADY: Yes.

THE COMMISSIONER: And you would also say, de-

...the following employment: well, yes?

MR. BRADY: It would undoubtedly have the ef-

...of decreasing employment.

THE COMMISSIONER: Well, that topic has been

...begin after lunch.

The Commission adjourned at 12.30 p.m. to meet

2.30 p.m.

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AFTERNOON SESSION

-- On resuming at 2.30 P.M.

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5 MR. McRUER: Now, I am turning, my lord, to page  
128 now to run over somewhat hurriedly the attitude  
of these companies, that is, the main companies, that  
formed the change down from the time from the Hudon  
Cotton Company toward the public at large while their  
10 business was, I think, as their records show, prosper-  
ing very well, and as a foundation for what I have  
to contend in this regard I am taking what they say  
themselves, and I am not going into any exhibits  
or anything of that sort; it is what they say in  
15 their own records in respect to their affairs.

Now, to go back as far as 1884 on page 128 I  
have copied there a short extract from the Minutes  
of the meeting of shareholders which shows that even  
20 at that time when stocks piled up the company laid  
off its employees until those stocks would be absorbed.  
It is an indication of the attitude towards the employ-  
ees while they were benefitting under the protective  
tariff to the extent that I showed this morning.  
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Now, I go to page 130 where a proposition is  
brought before the directors for the acquisition of  
certain grey cotton mills and the list is interesting:  
Halifax mill, Windsor mill, Moncton mill, St. John's  
30 mill, Coaticook mill, Chambly mill, Kingston mill,  
and the Brantford mill. The company ultimately





did acquire all except the St. John's Mill.

Now then, these were mills that the proposition was to acquire in addition to the ones they already owned, and, in fact, since the mills were acquired by this company or its successors all these mills have been actually closed so that the acquisition of the mills, although they were carried on some of them to a greater extent than others, the acquisition of them ultimately meant the elimination of them.

Now, at the foot of the page the organization of the Dominion Cotton Company is reported and the purchase of the Coaticook, the Craven - well, that is the St. John's mill, I thought they did not acquire it but they apparently did - Kingston, Moncton, and Windsor cotton companies was approved.

Now, the dividends declared were 10%, and, of course, that was on the outstanding capital created as I intimated this morning. Then they went on in 1892 with a stock bonus of 90%, and in 1893 the Minutes contained this record,

"You will have noticed that there had been considerable agitation for some time past in and out of parliament with regard to a revision of tariff,--- There will doubtless be some change in the tariff, but whatever be the result we think and believe this company will always be in a position to earn a good respectable dividend."

Now, that is what they said about themselves at that



At the same time, these were mills that the proposition was

Now then, these were mills that the proposition was  
 separate in relation to the ones they already owned,  
 and, in fact, since the mills were acquired by this  
 company or its predecessors all these mills have been  
 actually closed so that the acquisition of the mills  
 although they were carried on some of them to a  
 greater extent than others, the acquisition of them  
 ultimately meant the elimination of them.

10

Now, at the foot of the page the organization of  
 the Dominion Cotton Company is reported and the  
 purposes of the Corporation, the Governor - well, that I  
 the St. John's Mill, I thought they did not acquire  
 it but they apparently did - Kingston, Montreal,  
 and other places.

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Now, the dividends declared were 10%, and, of  
 course, that was on the outstanding capital created  
 as I intimated this morning. Then they went on  
 in 1882 with a stock bonus of 9%, and in 1883 the  
 Minutes contained this record.

20

"You will have noticed that there has been  
 considerable agitation for some time past in an  
 out of Parliament with regard to a revision of  
 tariff.--- There will doubtless be some change  
 in the tariff, but whatever be the result we  
 and our country will always be in a  
 position to meet any such change with confidence."

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14362

time. A report was made to the Board of Directors in 1894 as to the value of the properties, and that is contained at page 132 of this Brief. Now, as to the Ste. Anne Mill - I am not sure as to whether that is in operation now or not. Do you know, Mr. Howard? That is not the later Ste. Anne Mill; that is the old one.

MR. HEWARD: I am not sure; Mr. Gordon will be here very shortly and you can ask him. I don't suppose that is the predecessor of the Montmorency Mill, by any chance?

MR. McRUER: No. The Montmorency mill came in in the Montmorency Cotton Company. The Montmorency Mill came in with the amalgamation of the Dominion Cotton Company, the Merchants, Montmorency and the Colonial Bleaching, but, at any rate, the Hochelaga Mill we know was continued. The Magog Mill we know was continued. The Ste. Anne Mill we are not sure about but all the remaining mills have since been closed, the Mills that are in that list, and in the report of 1894 disappointment is expressed at the new tariff, "now before Parliament."

"It is stated that the tariff was 5%

less on many of the goods produced by the Company than the Committee of Management representing the Company tried to secure."

So they did not get as much as the industry was trying to secure at that time.



1884

... in 1884 as to the value of the ...  
is contained at page 122 of this Brief. Now, as  
to the ... I am not sure as to whether  
it is in operation now or not. Do you know, Mr.  
... That is not the later one. Anne Mill; that  
is the old one.

MR. ...: I am not sure; Mr. Gordon will be better  
very shortly and you can ask him. I don't suppose  
that is the predecessor of the Montserrat Mill,  
by any chance?

MR. ...: No. The Montserrat Mill came in in  
the Montserrat Cotton Company. The Montserrat  
Mill came in with the amalgamation of the Division  
Colonial Bank, but, at any rate, the Montserrat  
Mill we know was continued. The Mill we know  
was continued. The Mill we know was not  
one about but all the remaining Mills have since  
been closed, the Mills that are in that list, and  
in the report of 1884 the statement is expressed

at the new tariff, "now before Parliament."  
... less on many of the goods produced by the Company  
than the Committee of Management represented  
... to secure."

7 THE COMMISSIONER: Where is that?

MR. McRUER: On page 132, my lord, about the middle of the page.

5 "The report states & Your Directors, however, are determined to make the best of it and although the profits will be considerably lessened they feel confident a fair dividend can be made."

10 THE COMMISSIONER: I suppose you will say that is the kind of tariff they should have.

MR. McRUER: Yes - well, I think by the results that were shown afterwards it possibly was a little excessive.

15 THE COMMISSIONER: You might not put the same interpretation on the words "Fair dividend" as the Company put.

20 MR. McRUER: Well, if we restricted them to the dividend they did make on the tariff they complain of here it would not be, to say the least, niggardly. In the Annual Report on the 10th of April, 1895, there is a statement ---

25 THE COMMISSIONER: Where is that?

MR. McRUER: On the 10th of April 1895:

"The Directors stated that there had been a bad state of trade."

THE COMMISSIONER: It is the 10th of April, 1895.

30 MR. McRUER: I beg your pardon.

"---a bad state of trade prevailing throughout the



THE COMMISSIONER OF THE BUREAU OF LAND MANAGEMENT  
WASHINGTON, D. C. 20250

MR. WOODRUFF: On page 132, my lord, about the

Page 10 of 10

are determined to make the best of it and

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THE COMPTON: I suppose you will say that is

the kind of tariff they should have.

Q. Now, I think by the results

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United States of America and England and there was terrific competition going on more or less throughout the year." Now, they are still complaining about the competition as far eback as 1895.

5 "The dividend paid for the year was at the rate of  $7\frac{1}{2}\%$  on the outstanding capital."

Your Lordship will remember how the outstanding capital was inflated before that time.

10 THE COMMISSIONER: That is in line with what I was saying a moment ago, having regard to what you have quoted from their report it is what they would consider a fair dividend from it.

15 MR. McRUER: Probably, my lord; it in fact works out to about 20% ---

THE COMMISSIONER: You point out how the capital was constituted.

20 MR. McRUER: Yes, my lord. Now, reading from the shareholders' report in 1896:

25 "---the Directors complained again of 'very close competition' from England and the United States of America. The net profit for the year amounted to \$442,916.29 on sales amounting to \$3,059,892.88, or 14.47% on sales.

30 Dividends were paid at the rate of 6% on the outstanding capital, and it is stated in the report that the Company has a surplus of assets on capital of 36%."

So here we are at this stage that up until now they



United States of America and England and there was  
the fact that they are still occupying about  
the competition as for about 1933.  
The dividend paid for the year was at the  
rate of 7% on the outstanding capital.  
Your forward will remember how the outstanding capital  
was reduced before that time.  
The company's report is in line with what I was  
saying a moment ago, having regard to what you have  
quoted from their report it is what they would consider  
a fair dividend from it.  
Mr. Chairman: Probably, my lord; it is in fact  
out to about 2% ---  
The Chairman: You point out now the company  
was consolidated.  
Mr. Chairman: Yes, my lord. Now, looking from  
shareholders' report in 1933:  
"--the directors explained a number of 'very  
effort competition' from England and the United  
States of America. The net profit for the year  
amounted to £244,315.00 on sales amounting to  
£1,000,000.00, or 24.4% on sales."  
Dividends were paid at the rate of 6% on the  
standing capital, and it is stated in the report  
that the company has a surplus of £1,000,000.00  
to have been used in 1933 (which was not done).

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have a surplus of assets on capital up to 36%. That is 36% over, of a surplus of the assets over the capital, and their capital stock having been inflated in the way we say it has been inflated, or not only say, but inflated in the way that it was inflated by this one-third at one time and 90% at another, and so on, it has not been doing too badly up until now.

Then, the report to the shareholders of the Annual Meeting on the 9th of April, 1897:

"--the Directors stated that business for the past year had been somewhat disappointing 'owing to the stagnation of business all over the Dominion caused to a great extent by the uncertainty in regard to the tariff, and from very severe and close competition in England, and more particularly with the United States of America."

So that we have another official complaint, almost becoming chronic now, and still to become more chronic, issued annually about the competition. Then, the report goes on:

"We are expecting a revival of business as soon as the tariff is settled, and should the duties be maintained, as we are led to expect they will be, we are confident that in a very short time our stock will soon be disposed of and prosperity will once more set in upon us."

Well, their profits for that year were \$256,756.91 or 9½% on sales. Their looms in operation were



our stock will soon be disposed of and prospect  
us, we are confident that in a very short time  
be maintained, as we are led to expect they will  
the tariff is settled, and should the duties  
"we are expecting a revival of business in some

4,384, their hands employed 2,950 and annual wages of \$787,455, or \$266 per employee, and not only that but the directors reported -

5       "--a considerable addition and extension etc their Hochelaga Mill; that they had materially improved the Magog property, and that altogether the property is in excellent condition."

10       So that having regard, nevertheless, to these diversities of competition and the tariffs under which they were labouring the report does not seem to be too disappointing. Then, they go on in the next year to state -

15       "--that the results of the first half of the year were very disappointing. However, after writing off \$156,199.83 for depreciation, what is stated to be in the report as 'the large sum' "-- And I am using their own

20       words - "--the large sum of \$71,288.61 for repairs, the operations showed a profit of \$344,783.22 on sales of \$3,080,861.49, or 11% after depreciation and repairs."

25       Then, in the year 1899 the profits amounted to \$435,888.95, or 14.8% on sales. The dividends were 6% on the outstanding capital, and the wages seem to have come down from the previous year from \$277 per employee to \$247 per employee, and -

30       "The report states that during the year very great additions and improvements have been made



- Nitrogen fixation and soil

The property is in excellent condition."

titles of competition and the tariffs under which the

disappointing. Then, they go on in the next year

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...the large sum of \$1,838.17 for repairs.

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"Proclamation and Report"

The following are the names of the persons who have been identified as having been in contact with the subject during the period of the investigation:

in the machinery and construction of the mill.

It is expected by the end of the year,--"

5 THE COMMISSIONER: I notice - pardon me for interrupting you - I notice in the year before that the company describes as very disappointing the result of the operations which showed 11%, as you find it, after depreciation and repairs, and the next year they made 14.8% and they call that very satisfactory.

10 MR. McRUER: Yes, my lord.

THE COMMISSIONER: It is interesting to see how you get from very disappointing to very satisfactory between 11% and 14.8%.

15 MR. HEWARD: That was the first half of the year they said was very disappointing, my lord.

THE COMMISSIONER: Oh yes, the first half of the year, but the second half must have been very satisfactory.

20 MR. McRUER: It must have been extremely satisfactory.

THE COMMISSIONER: In the mean time I presume this tariff uncertainty had been settled.

25 MR. McRUER: Yes, it must have been. That would be the tariff of 1897.

THE COMMISSIONER: They said:

"We are expecting a revival of business as soon as the tariff is settled."

30 They said that in April, 1897.

MR. McRUER: Yes, my lord.



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THE COMMISSIONER: Then, in April, 1898 they say that the first half of the year was disappointing and the next year, 1899, they say everything was very satisfactory; all right.

MR. McRUER: Then we come to the year 1900, and they stated:

"--that profits for the year were not as large 'as we would have liked'".

That is the middle of the page -

"--but this was owing to a great number of changes and remodelling of nearly all the mills during the past year."

THE COMMISSIONER: Did they say "This was owing"?

MR. McRUER: Well, I say that.

THE COMMISSIONER: That shows why it was not as profitable.

MR. McRUER: "--and that much machinery was stopped during the reconstruction. Profits, after writing off \$80,423.59 for repairs, amounted to \$315,216. Sales for the year amounted to \$3,357,661, on which the profits amount to 9.4%."

The wages were \$242 per employee calculated on the basis of what they state as to the number of hands and the amount of wages paid:

"At a meeting of the Board on the 26th of June, 1900, it was stated that the Company had during the last year enlarged and improved its plants at Lagos,



that the first half of the year was disappointing

and the next year, 1880, they say everything was very

satisfactory; all right.

MR. BRYDIE: Then we come to the year 1880, and

stated;

"--that profits for the year were not as large

'as we would have liked'."

That is the middle of the page -

"--but this was owing to a great number of changes

and remodeling of nearly all the mills during the

past year."

THE CHAIRMAN: Did they say "this was owing to

MR. BRYDIE: Well, I say that.

THE CHAIRMAN: That shows why it was not

as profitable.

MR. BRYDIE: "--and that much money was not

stopped during the reconstruction. Profits,

after writing off \$80,438.39 for repairs,

amounted to \$100,000.00 for the year

amounted to \$2,387,661, on which the

profits amount to \$1,000.

These were \$100 per employee calculated on the

basis of what they state as to the amount of hands

and the amount of wages paid;

"it a meeting of the board on the 26th of June,

1880, it was stated that the company had during

last year enlarged and improved its plants as

Hochelaga, Ste. Anne and other points. A by-law was ratified to provide for the issue of preferred stock"--

THE COMMISSIONER: One million dollars.

MR. McRUER: One million dollars.

Then, at the annual meeting in 1901 -

"--it was stated that the improvements had now been completed, and, notwithstanding a stoppage caused by changing of machinery, the gross profits of the Company were more than they had made in any previous year."

So that is where they had got to in 1901:

"(In the report,, gross profits as preferred to apparently mean net profits before payment of dividend and bond interest.) The profits before dividends amounted to \$652,335.09 after charging off 'the large sum of' \$80,339.69 for repairs, which amounted to 18.33%."

So that is the position in 1901, and they had secured legislation exempting from municipal taxation the Mill at Magog and they had an exemption at the Kingston Mill for 20 years.

THE COMMISSIONER: You did not show the wages that year.

MR. McRUER: No, my lord. I think they have not been copied into the Minutes or I should have had them, and the Minutes said:

"This with exemption at Moncton, Windsor and





Halifax ought to be considered a very valuable arrangement in favour of the company."

Now, I just emphasize that they have this additional privilege under which the Company was operating, and that was it was not paying the ordinary full extent of the municipal taxes. I mention that later on. It is for the municipal authorities to decide whether they will exempt certain industries or not, and we well know they compete against one another to a certain extent with exemptions for the purpose of getting an industry into the municipality, but the fact remains that the industry is enjoying that privilege, and if it enjoys the privilege some other person pays the taxes it otherwise would have paid. They must come back on some other person.

Now, there is a rather interesting thing here. It shows to a certain extent the development of public opinion since this time, and public opinion may develop to a certain extent further than it has done to the present time as to what publication of profits ought to be made by companies that are enjoying the privileges of protection.

"The motion was made that a report of the Company's affairs be sent to the shareholders. It was stated that no other manufacturing company sent printed statements to the shareholders and that it was not in the interests of the Company to do so."



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arrangement in favour of the company.  
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to a certain extent further than it has done for the  
present time as to what publication of public ought  
to be made by companies that are enjoying the  
privileges of protection.  
The motion was made that a report of the General  
affairs be sent to the shareholders. It was  
passed that no other manufacturing company sent  
any report to the shareholders.

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Now, things have changed since 1901 when that was the view, and apparently the practice of all other companies.

"The motion was withdrawn.

"At a meeting of the Board on the 31st October, 1901, (page 5747) a resolution was passed that in view of the large expenditures incurred in putting the various properties of the Company in first-class condition and also with the object of reducing the floating liabilities of the Company, not to pay the quarterly dividends heretofore paid on the 1st December."

Now, something was said about this company having passed its dividends---

THE COMMISSIONER: Pardon me a moment; are you not running two things into one?

MR. McRUER: Well, I have run them into one. I have run on to another one rather fast.

THE COMMISSIONER: A motion was made that a report of the Company's affairs be sent to the shareholders.

MR. McRUER: Which was withdrawn.

THE COMMISSIONER: Which was withdrawn because it was pointed out that other companies did not send them and it was not a good thing for the company to do. That took place in April, 1901. Now, you go on to something else.



... , which have changed since 1901 when that was  
the view, and apparently the practice of all other

... and the following:

"At a meeting of the Board on the 11th  
October, 1901, (page 374) a resolution was  
passed that in view of the large expenditures  
incurred in putting the various properties  
of the Company in first-class condition and also  
with the object of reducing the floating  
liabilities of the Company, not to pay the  
quarterly dividends heretofore paid on the

1st December."

Now, something was said about this company having  
passed its dividends---

THE COMMISSIONER: Pardon me a moment; are you not  
turning two things into one?

MR. MOHR: Well, I have run them into one.

I have run on to another one rather fast.

THE COMMISSIONER: A motion was made that a report  
of the company's affairs be sent to the shareholders

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THE COMMISSIONER: Which was withdrawn because it  
was pointed out that other companies did not send  
them and it was not a good thing for the company to  
do. That took place in April, 1901. Now, you

... and the following:

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MR. McRUER: This is entirely new. I ran on too fast there.

5 THE COMMISSIONER: It does raise an interesting question to show how the directors acted, at least, insofar as this company is concerned, so recently, I might say, as 1901. Well, of course, the Company belongs to the shareholders but they were not going to let them know what was going on.

10 MR. McRUER: It wasn't good for them. I don't know - I don't want to be too suspicious. It is suggested sometimes I am very suspicious ---

15 THE COMMISSIONER: You are talking, of course, of 36 years ago?

20 MR. McRUER: But this company within a very short time - there was a proposition made that this company should sell out its assets to a new company to be formed, or at least through the instrumentality of a syndicate, and that the stock of this Company was disposed of at 50 cents on the dollar. Now, I don't know whether the directors, or any of them, were the same as the members of the syndicate or not.

25 We might look back to see who they were, but there might be something in that. However, there it is, but the next point is extremely interesting because of certain contentions that are made in my friend's brief. It is contended that the Dominion Cotton Company was not doing well at all, that it was in

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It is suggested that you consider the

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very bad shape when the Dominion Textile Company took it over, and that it had not paid dividends but we see here the purpose of passing the dividend was to use the money for capital expenditure in expanding the company's plants and revamping them. It says:

"--a resolution was passed that in view of the large expenditures incurred in putting the various properties of the Company in first-class condition and also with the object of reducing the floating liabilities of the Company, not to pay the quarterly dividends heretofore paid on the 1st December. It was decided to send copies of the resolution to be inserted in the financial columns of the Gazette and Le Journal and that circular copies be sent to each shareholder."

There seems to be plenty of publicity in regard to the resolution of passing the dividend:

"A Committee appointed to look into the affairs of the Company had come to the conclusion that the large loss shown in the first six months had been caused by the purchase of raw cotton at very large figures and not having sold their manufactured goods at a proportionate advance."

So if there was any loss in the company's affairs just at this time it would appear that it was through rather bad business management in purchasing too





much raw material on a falling market.

MR. HEWARD: Isn't that a little severe? That is one of the risks that this company has inherent in it, but to say it is bad management at this date ---

5 MR. McRUER: Well, we do not find it occurs very much over the whole period. They can manage them pretty well.

10 MR. HEWARD: It seems to me it is a deduction that does not arise from the evidence before us. It may have been due to a number of causes. To say it was bad management, well, we don't know that.

15 MR. McRUER: That is what they say. At any rate, they bought raw cotton at very large figures, and did not sell their manufactured goods at a proportionate advance.

THE COMMISSIONER: That is one time the benefit perhaps would go to the consumers.

20 MR. McRUER: That may have been on account of the lower tariff, and, besides, they cannot always have it both ways. If they buy cheap and then they go up and the tariff is still there they can make additional profit. It works both ways.

25 Then, at a meeting of the board held on the 29th of January, 1902 ---

THE COMMISSIONER: Do I understand that now cotton, raw cotton is bought in the futures market?

30 MR. McRUER: That was what Mr. Gordon said.

MR. GORDON: Simply hedged in the futures market



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new raw material on a rolling market.

one of the risks that this company has inherent in it

but to say it is bad management at this rate ---

MR. MOHRER: Well, we do not think it occurs very

much over the whole period. They can manage them

pretty well.

MR. HARRIS: It seems to me it is a deduction

that does not arise from the evidence before us.

It may have been due to a number of causes. In any

it was bad management, well, we don't know that.

MR. MOHRER: That is what they say. At any

rate, they bought raw cotton at very large figures,

and did not sell their manufactured goods at a

proportionate advance.

MR. COHEN: That is one thing and the benefit

perhaps would go to the consumers.

MR. MOHRER: That may have been on account of

the lower tariff, and, besides, they cannot always

have it both ways. If they buy cheap and then

they go up and the tariff is still there they are

in a difficult position.

Then, at a meeting of the board held on the 28th

of January, 1902 ---

MR. MOHRER: Do I understand that now cost

the cotton is about in the former market?

MR. MOHRER: Yes, and that is the same price.

MR. COHEN: That is what I am trying to say.

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if you want to hedge it. I think there was a futures market existing at that time if they wanted to use it.

THE COMMISSIONER: They did not use it, apparently.

MR. GORDON: Apparently not.

MR. McRUER: But your lordship will see what was going on as disclosed in the next paragraph.

"At a meeting of the Board held on the 29th January, 1902, the President stated that the Board had received a proposal for the acquisition of Merchants Cotton Company, Limited, by Dominion Cotton Mills Company Limited."

THE COMMISSIONER: Now, the Company you are talking about now is the Dominion Cotton Mills Company?

MR. McRUER: Yes, my lord.

THE COMMISSIONER: There was a proposal from the other company, was it?

MR. McRUER: Yes, my lord.

THE COMMISSIONER: That is, the Dominion Cotton Mills Company had received a proposal ---

MR. McRUER: From the Merchants Cotton Company.

THE COMMISSIONER: To acquire the latter company?

MR. McRUER: Yes.

MR. HEWARD: To acquire Merchants Cotton Company.

MR. McRUER: Yes. Then, an alternative proposal was put forward, and arrangements were made for a meeting with representatives of the company, and in report on the 7th of April, 1902 -



12 you want to handle it. I think there was

former market existing at that time it had wanted

to use it.

THE COMMISSIONER: They did not use it, apparently.

MR. GORDON: Apparently not.

MR. GORDON: But your testimony will say that was

going on as disclosed in the next paragraph.

"At a meeting of the Board held on the

29th January, 1902, the President stated that the

Board had received a proposal for the acquisition

of Dominion Cotton Mills Company, Limited, by

the Dominion Cotton Mills Company, Limited."

THE COMMISSIONER: Now, the company for the time

being now is the Dominion Cotton Mills Company?

MR. GORDON: Yes, my lord.

THE COMMISSIONER: There was a proposal from the

other company, was it?

MR. GORDON: Yes, my lord.

THE COMMISSIONER: That is, the Dominion Cotton

Mills Company had received a proposal --

THE COMMISSIONER: From the Dominion Cotton

Mills Company? To acquire the latter company?

MR. GORDON: Yes.

THE COMMISSIONER: To acquire the Dominion Cotton

Mills Company, is that right?

MR. GORDON: Yes, my lord.

THE COMMISSIONER: And arrangements were made for a

in report on the 7th of April, 1902 --

"it was stated that trade had been demoralized by the reduction of prices in the American and English markets. The management was blamed for losses,"-

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You see, I am not probably a little too hard on them when I say they blamed them themselves.

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"--and the Directors had asked for the resignation of the management. It was reported that they had changed the method of selling by separating the manufacturing end of the business from the selling end, and that the selling had been given to a firm in close touch with the buyer."

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That was Mr. Morrice at that time, if my recollection serves me correctly. In the report to the shareholders at the Annual meeting in April, 1903 ---

THE COMMISSIONER: Just a minute; I see that there was a loss reported.

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MR. McRUER: I think that was the only year in the history of the company that there was a loss.

THE COMMISSIONER: There were three dividends paid though.

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MR. McRUER: Dividends were paid, amounting to \$136,000. Then, we come to 1903, and the results of the year were stated to have been very satisfactory. So things have taken a turn for the better, apparently,

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"--especially when we consider the keen competition which we have had to meet from the English market, owing to the preferential tariff





in favour of Great Britain."

So those lines were more or less set to music at that early date.

5 "The profits for the year, after writing off  
'the large sum of \$73,426.37 for repairs and  
betterments,' amounted to \$261,477.66, or 3%  
on sales."

10 So that at that time they had expressed that as very  
satisfactory especially considering the competition  
they had. The wages were \$253 per employee per  
annum on the average, and on the 17th of September:

15 "it was reported that a meeting of cotton mill  
representatives had been called by Mr. Clouston"--

THE COMMISSIONER: That is 1903?

MR. McRUER: Yes, my lord.

20 "--with a view of bringing about a better  
relationship between the three companies which  
are now competing with one another."

So there is something in what my friend says in his  
brief that the ultimate elimination of the competition  
was designed to have some value:

25 "at this meeting a sub-committee composed  
of James Crathern and Senator Mackay  
representing Colonial Bleaching & Printing Company  
Limited, Senator Forget and S.H. Ewing  
representing Dominion Cotton Mills Company  
30 Limited, and David Morrice Sr., was appointed."



in favor of Great Britain."

to those lines were more or less set to music of the

early date,

"the profits for the year, after deducting the

'the large sum of \$75,483.33 for repairs and

'betterments,' amounted to \$101,477.80, or 24

so that at that time they had expressed that an very

entirely satisfactory considering the competition

they had. The wages were \$233 per employee per

month on the average, and on the 15th of September;

representatives had been called by Mr. Johnston--

Mr. McMillan: Yes, my lord.

--with a view of bringing about a better

relationship between the three companies which

are now competing with one another."

So there is something in what my friend says in his

brief that the ultimate elimination of the competition

was designed to have some value:

"at this meeting a sub-committee composed

of James Johnston and Senator Mackay

limited, Senator Forster and G. ... King

limited, the same parties as were appointed."

... to the ...

THE COMMISSIONER: That is a sub-Committee.

MR. McRUER: "At a meeting of the sub-committee it was proposed to have a valuation made by experts of the properties of the Merchants Cotton Company Limited, the Colonial Bleaching & Printing Company Limited, and Dominion Cotton Mills Company Limited, and that each Company appoint representatives to act. Senator Forget and S.H. Ewing were appointed to represent the Dominion Cotton Mills Company Limited.

At a meeting of the Board held on the 10th November, 1903, a draft proposal was read providing for the amalgamation of the three companies."

Now, we see what is going on here. Here are representatives of the three different companies that are sitting down - they appoint a committee and the committee sits down and arranges for the amalgamation of the companies, and a bit later we see that a lot of these gentlemen are on the syndicate that has interposed in the amalgamation to take out \$5,000,000 in common stock for \$500,000.

THE COMMISSIONER: Did they interlock as directors in these various companies?

MR. McRUER: I don't know how far they did.

MR. HEWARD: I can give you that information, Mr. McRuer.

MR. McRUER: Who the directors were?





Who the directors were of each of the respective companies?

MR. HEWARD: I can give you that information.

5 MR. McRUER: They were changed a bit later when the actual agreement went through, when they had gained control. They elected their own directors, as I recollect it.

10 MR. HEWARD: Only six members of the Syndicate out of 16 were shareholders of the constituent companies, six members.

MR. McRUER: It isn't a question of that.

15 THE COMMISSIONER: We are talking, for instance, of whether in the Merchants Cotton Company, for example, were the same people directors?

MR. HEWARD: I thought you meant between the Syndicate and the Companies. Six members of the Syndicate were shareholders of the Constituent companies.

20 MR. McRUER: It was not that so much.

25 THE COMMISSIONER: You might find that out if you are going into it at all because it is a different thing if directors of various companies sit down independently of each other than if they are not independent of each other, if they are co-directors in some of the companies.

MR. Mcruer: Yes, but what I was commenting on was not so much that but the fact ---

30 THE COMMISSIONER: Yes, but that is what I am commenting on.





MR. McRUER: Yes, I know, but I am commenting on the fact that the members of this Committee who were appointed by the various companies who represent them turned up on the Syndicate later on.

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THE COMMISSIONER: That is a later step.

MR. McRUER: That is a later step. I do not believe we read into the record the Directorate of all these Companies, but I will have it looked up.

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"At a meeting of the Board held on the 10th November 1903, a draft proposal was read providing for the amalgamation of the three companies."

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THE COMMISSIONER: That would mean a draft proposal from this sub-committee, I suppose?

MR. McRUER: Yes, my lord.

THE COMMISSIONER: Is that right?

MR. McRUER: I would think so.

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THE COMMISSIONER: Well, it sounds like it.

MR. McRUER: "In the report to the shareholders at the Annual Meeting held April 23, 1904, it was stated that the result for the year had been;

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'very satisfactory, especially when we consider the keen competition which we still have to meet from the English market owing to the preferential tariff in favour of Great Britain.

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'To form an idea of this severe competition we have only to mention the figures of the imports of cotton goods into Canada from Great



Mr. Brydie: Yes, I know, but I am commenting on the fact that the members of this Committee who were appointed by the various companies who represent them turned up on the syndicate later on.

THE COMMISSIONER: That is a later step.

MR. MORRIS: That is a later step. I do not believe we need into the record the Directorate of all these companies, but I will have it looked up.

"At a meeting of the board held on the 10th November 1900, a draft proposal was read providing for the amalgamation of the three companies."

THE COMMISSIONER: That would mean a draft proposal for this sub-committee, I suppose.

MR. MORRIS: Yes, my Lord.

THE COMMISSIONER: Is that right?

MR. MORRIS: I would think so.

THE COMMISSIONER: Well, it sounds like it.

MR. MORRIS: "In the report to the shareholders at the annual meeting held April 23, 1902, it was stated that the result for the year had been very satisfactory, especially when we consider the keen competition which we had to meet from the Belgian market owing to the preferential tariff in favour of Great Britain."

THE COMMISSIONER: I am not sure that is the correct order of the report.

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Britain during the past three years, which, according to the Government Statistician, amount to \$14,661,277."

5 I just quote that for that is the atmosphere in which this new company was born as far as competition was concerned and we see how it lived in that difficult atmosphere, and grew. Probably the sunlight of competition was good for it.

10 "In spite of this, this Company's sales jumped from \$3,300,169.46 to \$3,942,558.99, this being the record high point in the history of the Company. The net profits, after writing off the 'large sum of',--

15 THE COMMISSIONER: You put the word "net" in there.

MR. McRUER: Yes.

"The profits, after writing off 'the large sum of \$81,892.24 for repairs and betterments'

20 amounted to \$297,546.03. Profits on sales amounted to 7.6%. The sum of \$195,166.57 was credited to profit and loss account. The surplus in that account stood at \$864,723.17."

25 Now, that was the position in 1903, and it may be that there is, and there probably is an economic significance in this fact that they were getting this competition from Great Britain and at the same time were prospering in Canada showing record sales for

30 the year, because it may have been that on account of the trade that had been developed with Great Britain



Britain during the past three years, which, according to the Government statistician,

amount to \$14,861,277."

I just quote that for that is the atmosphere in which

the Government is operating and that is the atmosphere in

which the Government is operating and that is the atmosphere in

atmosphere, and great. Probably the sunlight of

the Government is the same as the

"In spite of this, this Company's sales

jumped from \$3,300,188.48 to \$3,945,058.88, this

being the record high point in the history of the

Company. The net profits, after writing off

the 'large sum of' --

THE COMPANY'S ANSWER: You put the word "net" in there.

THE COMPANY'S ANSWER: You put the word "net" in there.

"The profits, after writing off, the large sum

of \$1,000,000, the net profits were \$2,945,058.88.

amounted to \$2,945,058.88. The sum of \$100,188.48 was

credited to profit and loss account. The company

in that account stood at \$204,788.17."

Now, that was the position in 1908, and it may be

that there is, and there probably is an economic

competition from Great Britain and at the same time

the Government is operating in the same atmosphere

the Government is operating in the same atmosphere

the Government is operating in the same atmosphere

the Government is operating in the same atmosphere

a healthier domestic situation prevailed in Canada, and that the purchasing power of the Canadian again was increased. There is quite a significance in that very fact that here at the very time that they were complaining about these large importations from Great Britain they were experiencing the high-water mark of sales in Canada.

MR. HEWARD: In that connection, sir, perhaps my learned friend would let me interrupt to say that of course the gross amount of sales would vary according to the price of raw cotton so that the fact that the company may have made \$3,900,000 as against \$3,300,000 in the previous year would not necessarily mean it was prospering, and, as a matter of fact, we see that the profits in sales before bond interest amounted to 7.6% only there.

MR. McRUER: Yes, but I am taking your own statement. I have copied the words of their own statement of how they regarded it, and they said it was very satisfactory especially when we consider the keen competition that we still have to meet from the English market owing to the preferential tariff in favour of Great Britain. Does my friend say that raw cotton was high at this time?

MR. Heward: I cannot tell that, but I say it does affect the situation from one year to another. We have to take into consideration raw cotton prices.

MR. McRUER: Absolutely, and that is where the





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question of percentage of sales is not a firm basis -  
the percentage of profits on sales is not a firm basis  
on which to reckon a company's prosperities. There  
are many elements that enter into it.

5

THE COMMISSIONER: I notice that the number of  
their employees was very much less that year.  
The year before you have it down at 3,727 and this  
year it is 3,000 only, although the volume of sales  
was greater.

10

MR. McRUER: Their average annual wage is up, too.

THE COMMISSIONER: It is \$268.

MR. McRUER: \$268 as against \$253.

15

THE COMMISSIONER: I don't see it in the year  
before.

MR. HEWARD: The volume of wages was down.

MR. McRUER: Yes, I know.

MR. BEAUREGARD: 500 hands less.

20

THE COMMISSIONER: Pardon me, I was reading for  
the year 1902. I did not see that.

MR. HEWARD: If you take 1903 it was 3500.

THE COMMISSIONER: I was wrong there. I had  
gone back two years instead of one.

25

MR. HEWARD: It was 500 more in the year previous.

THE COMMISSIONER: Yes, that is right.

MR. McRUER: Well, we will see how they got along  
the next year.

30

"At a meeting of the Board of Directors held  
on the 14th December, 1904, a proposal was put



are many elements that enter into it.

The year before you have it down at 3,727 and this year it is 2,500 only, although the volume of sales

"At a meeting of the Board of Directors held  
the next year.

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forward of a scheme for the purpose of acquiring the capital stock of Dominion Cotton Mills Company Limited."

THE COMMISSIONER: That is, this is ---

MR. McRUER: This was a scheme put forward to the Board for the purpose of acquiring these; this would be a scheme from the syndicate.

"--Merchants Cotton Company Limited, Montmorency Cotton Mills Company Limited and Colonial Bleaching & Printing Company Limited. A draft circular was settled for the purpose of explaining the offer of a syndicate, which circular it was proposed to send to the shareholders.

The net manufacturing profit for the 13 months amounted to \$48,833.37."

Now, there is nothing said there as to how much was charged off for repairs and betterments and that sort of thing. The wages were down and the number of employees was up. The number of employees had risen from 3,000 to 3,300, but the wages now were down to an average of \$224.

"The syndicate referred to in the Company's minutes was a syndicate composed of 16 men organized for the purpose of incorporating Dominion Textile Company Limited. Under the provisions of the syndicate agreement these men agreed to contribute one million dollars to be deposited with the Royal Trust Company of the



forward of a scheme for the purpose of realizing  
the initial stock of Dominion Cotton Mills

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---  
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THE COMMISSIONER: That is, this is ---

MR. KENNEDY: This was a scheme put forward by

board for the purpose of acquiring shares; this would

be a scheme from the syndicate.

"---  
---  
---

Colonial Mills Company Limited and Colonial

Electricity & Light Company Limited. A draft

minutes was sent for the purpose of explaining

the offer of a syndicate, which minutes it was

proposed to send to the shareholders.

The net manufacturing profit for the 12

months amounted to \$10,327.37.

Now, there is nothing said there as to how much was

charged off for repairs and betterments and that was

of this. The wages were down and the number

of employees was up. The number of employees

had risen from 2,000 to 2,200, but the wages now

were down to an average of \$2.84.

"The syndicate referred to in the company's

minutes was a syndicate composed of 10 men other

than the 10 members of incorporating Dominion

Electricity & Light Company Limited. These 10 men

of the syndicate were of local and foreign

to contribute one million dollars to be

City of Montreal in proportions as follows:--"

5 And we have the proportions set out. Now, if we  
can just get for a moment the names of those gentlemen  
that were appointed to this Committee that was  
created for the purpose of bringing about a better  
relationship between the three companies; now, the  
sub-committee at page 138 is set out as James Crathern,  
Senator Mackay, H.S. Holt, Senator Forget, and  
10 S.H. Ewing, and David Morrice. Now, we have of  
those Morrice, Forget, Holt and Mackay. We haven't  
Crathern or Ewing. They are the only two of the  
Committee that do not turn up on the Syndicate, and  
your lordship will recollect that the efforts of the  
15 syndicate to acquire Montreal Cottons just at the same  
time were very stoutly resisted by Mr. Ewing, and  
successfully, too, at that time.

THE COMMISSIONER: Successfully in what way?

20 MR. McRUER: Well, he persuaded the shareholders  
not to sell their shares, not to turn in their shares  
under the terms of the letter that was sent out.

MR. GORDON: I thought it was later.

25 MR. McRUER: It was 1905. When I deal with it  
in Montreal Cottons I have it. I think it was 1905.  
Now, this brings us to the Syndicate agreement and  
I don't think I need spend much time on it. These  
parties had subscribed this sum of \$1,000,000 to  
30 the Syndicate to be held by the Royal Trust Company.  
The subscription was subject to the Royal Trust



City of Montreal in proportion as follows:--

And we have the proportions set out. Now, it is

an hour yet for a moment the names of those gentlemen

that were appointed to this Committee that was

created for the purpose of bringing about a better

relationship between the three companies; now, the

sub-committee at page 138 is set out as James Graham

Senator Mackay, H.S. Holt, Senator Werges, and

S.R. Aving, and David Morris. Now, we have of

these gentlemen, I think, that are mentioned

Grathorn or Aving. They are the only two of the

Committee that do not turn up on the ground, and

Your Lordship will recollect that the efforts of the

Syndicate to acquire Montreal Cottons just at the same

time were very stoutly resisted by Mr. Aving, and

successfully, too, at that time.

THE COMMISSIONER: Successfully in what way?

MR. MORRIS: Well, he persuaded the shareholders

not to sell their shares, not to turn in their shares

under the terms of the offer that was sent out.

MR. GORDON: I thought it was later.

MR. MORRIS: It was 1905. When I dealt with it

in Montreal Cottons I have it. I think it is 1905.

Now, this brings us to the Syndicate agreement and

I don't think I need spend much time on it. These

parties had subscribed this sum of \$1,000,000 to

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Company obtaining the majority of the shares of these four companies for the benefit of the Syndicate.

Now, the letters that were sent out were letters in which the Royal Trust Company proposed that they should exchange for the shares of these companies securities of the Dominion Textile Company.

THE COMMISSIONER: Well, the offer put a value on the shares of the different companies, didn't it?

MR. McRUER: In this way, that, for instance, - you might get me that little booklet again, Mr. Rene, the history of your company. Exhibit 328 has the complete statement of it, and for the Dominion Cotton Company the shareholders were offered 25% in new preferred stock and 25% in new bonds. That is, they got 50 cents on the dollar paid for by preferred stock to the extent of 25% of their holdings and bonds to the extent of 25% of their holdings.

THE COMMISSIONER: Which company was that?

MR. McRUER: That is the Dominion Cotton Company, the one we have just been dealing with. The Merchants Cotton Company got 18 1/3 per cent of their holdings in preferred stock and 62 and 2/3 per cent. in bonds. So that they got 85 cents on the dollar in securities of the Dominion Textile Company.

THE COMMISSIONER: The new Company.

MR. McRUER: The Dominion Textile Company, and the Royal Trust Company and over these securities



Company obtaining the majority of the shares of the  
our companies for the benefit of the shareholders.  
Now, the letters that were sent out were letters in  
which the Royal Trust Company proposed that they should  
exchange for the shares of these companies securities  
of the Dominion Textile Company.

THE COMMISSIONER: Well, the offer put a value  
on the shares of the different companies, didn't it?  
MR. McNEIL: In this way, that, for instance, -  
You might get me that little booklet again, Mr. McNeil,  
the history of your company. Exhibit 308 has the  
complete statement of it, and for the Dominion Textile  
Company the shareholders were offered 25¢ in new  
preferred stock and 25¢ in new bonds. That is,  
they got 50 cents on the dollar paid for by preferred  
stock to the extent of 50% of their holdings and  
bonds to the extent of 50% of their holdings.

THE COMMISSIONER: Which company was that?  
MR. McNEIL: That is the Dominion Textile Company.  
The one we have just been dealing with. The  
Merchants Cotton Company got 1 1/3 per cent of their  
holdings in preferred stock and 2 2/3 per cent.  
So that they got 50 cents on the  
dollar in securities of the Dominion Textile Company.  
MR. McNEIL: The Dominion Textile Company, and  
the Royal Trust Company and other companies.

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to the shareholders and the shareholders accept them in place of the stock they turn in.

5 THE COMMISSIONER: How much on the dollar did the first company get?

MR. McRUER: 50 cents, my lord, paid for in these securities divided evenly between bonds and preferred stock. The second one got 85 per cent.

THE COMMISSIONER: Which was that?

10 MR. McRUER: The Merchants Cotton Company got 85% paid for by 18 1/3 % in preferred stock and 62 and 2/3 % in (B) bonds. This company had outstanding \$162,000 in bonds so to that extent the bonds issued  
15 were a second charge. They were (B) bonds, but these were later - the outstanding bonds were later cleaned up.

MR. GORDON: Yes, there were no bonds exchanged at that time.

20 MR. McRUER: The shareholders of the Montmorency Company got 120%; that is 120 cents on the dollar, 20% in preferred stock and 100 per cent in bonds. The new company assumed an obligation of \$450,000 in  
25 bonds that were outstanding. The shareholders of the Colonial Bleaching and Printing Company got \$1.66 2/3 on the dollar, 66 and 2/3 % in preferred stock in the new company, and 100% in bonds. Now, under  
30 the arrangement ---

THE COMMISSIONER: Those are all.



to the shareholders and the shareholders accept them

in place of the stock they turn in.

THE COMMISSIONER: How much on the dollar did the

first company get?

MR. McNEIL: 50 cents, my lord, paid for in the

securities divided evenly between bonds and preferred

stock. The second one got 35 per cent.

THE COMMISSIONER: With the same

Mr. McNEIL: The second one got 35 per cent.

paid for by 18 1/2 % in preferred stock and 82 and

2/3 % in (2) bonds. This company had outstanding

\$162,000 in bonds so to that extent the bonds issued

were a bonus. But the bonds were later cleaned

were later - the outstanding bonds were later cleaned

MR. GORDON: Yes, there were no bonds exchanged

at that time.

MR. McNEIL: The shareholders of the first company

company got 100%; that is 100 cents on the dollar,

80% in preferred stock and 100 per cent in bonds.

The new company assumed an obligation of \$480,000 in

bonds that were outstanding. The shareholders of

the Colonial Bleaching and Dyeing Company got

\$1.00 2/3 on the dollar, 66 and 2/3 % in preferred

stock and 33 and 1/3 % in bonds.

THE COMMISSIONER: ---

THE COMMISSIONER: Those are all.

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MR. McRUER: Those are all. So that under the arrangement the shareholders of these constituent companies received securities that were created by the Dominion Textile Company in those proportions and handed over their shares to the Royal Trust Company, and the Syndicate subscribed - the members of the Syndicate subscribed \$1,000,000 to the Syndicate for which they in turn got \$500,000 in preferred stock and \$5,000,000 in common stock. So that for the \$500,000 that was invested in preferred stock they got dollar for dollar. For the \$500,000 invested in common stock they got \$5,000,000 in common stock. That is the par value.

THE COMMISSIONER: \$10 for a dollar - 10 shares.

MR. McRUER: Yes, that was the par value and that is the basis on which it was set up in the books, and when it was charged the difference of \$4,500,000 was at that time charged in the books of the Dominion Textile Company as goodwill.

MR. HEWARD: Oh no, Mr. McRuer.

THE COMMISSIONER: Pardon me; make your statement again. I did not get it. What did you say?

MR. McRUER: \$4,500,000 was entered into the books at that time as goodwill. Later on - I think I am correct on that, am I not, Mr. Glascoe?

MR. GLASSCO: I think that is right.

MR. HEWARD: I am sorry.

MR. McRUER: So we have the company itself at that



Mr. MORTON: Those are all. So that under the  
management the shareholders of these companies  
companies received securities that were created by  
and handed over their shares to the Royal Trust Co.  
and the syndicate subscribed - the members of the  
syndicate subscribed \$1,000,000 to the syndicate for  
which they in turn got \$500,000 in preferred stock  
and \$5,000,000 in common stock. So that for the  
\$500,000 that was invested in preferred stock they  
got dollar for dollar. For the \$5,000,000 in-  
vested in common stock they got \$5,000,000 in common  
stock. That is the par value.  
THE CHAIRMAN: \$10 for a dollar - 10 shares.  
Mr. MORTON: Yes, that was the par value and that  
is the basis on which it was set up in the books,  
and when it was changed the difference of \$4,500,000  
- was at that time charged in the books of the Dominion  
Trust Co. as goodwill.  
Mr. MORTON: I am sorry.  
I did not get it. What did you say?  
Mr. MORTON: \$4,500,000 was entered into the  
books at that time as goodwill. Later on - I believe  
I am correct on that, am I not, Mr. O'SHEA?  
Mr. O'SHEA: I think that is right.  
Mr. MORTON: I am sorry.

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14389

time recognizing the position that as against \$5,000,000  
in common stock that was issued \$4,500,000 was good-  
will. Then, later on the books were changed in  
this sense that the assets of the constituent  
companies shown on the books of these companies had  
a book value of \$2,100,000 more than the securities  
that were issued against them. That is leaving  
the common stock out of the question. Therefore they  
reduced the amount that was written up for goodwill  
by the \$2,100,000 on the books. Now, I think that  
is right; if that is not accurate I would be obliged  
Mr. Howson isn't here to coach me at the moment  
and if Mr. Glassco disagrees with that I would like  
to have it because I want to say it accurately.

MR. GLASSCOE: I think there is some confusion  
caused by the way in which the entries were originally  
made. The original entry in respect to the  
common stock was as you have stated. Then, all  
the original entries were subsequently reversed.  
Perhaps six months later the whole thing was re-  
written and in the process the goodwill account got  
about half the entries which it should have, but the  
final effect of putting the assets on the books was  
to bring them on at the values at which they stood  
on the books of the predecessor company, and those  
were not reduced by any write-off. They were sub-  
sequently increased in 1917 by the write-ups which you



time receiving the position rate as a guest 12, 1954.

have mentioned in your brief. There was no write-off.

MR. McRUER: There were assets written off after that in excess of \$2,000,000, so Mr. Howson tells me, between then and 1910.

MR. GLASSCO: I cannot agree with that, sir, but I do not want to argue with you.

MR. McRUER: Will you say there was not?

MR. GLASSCOE: Yes.

MR. McRUER: You say there was nothing written off?

MR. GLASSCO: Nothing of that amount.

MR. McRUER: Not \$2,000,000?

MR. GLASSCO: No.

MR. McRUER: I can show you the items.

MR. GLASSCO: I make it \$350,000.

MR. McRUER: Well, we will come back to that.

However, it is sufficient that whether they were written off afterwards or not the Dominion Textile Company issued certain securities and the securities purchased all the stock of these constituent companies. The members of this Syndicate put up \$500,000 for common stock and got \$5,000,000 worth of common stock, and I am dealing with what they got. Now, all sorts of attempts are made when you get two companies amalgamating to write into the agreements what becomes more or less of a fanciful story in order that you may issue securities against that, and that the



1911

have mentioned in your brief. There was no write-

Mr. McNamee: There were assets written off after the  
in excess of \$2,000,000, so Mr. Howson tells me,  
between then and 1910.

Mr. Glasscock: I cannot agree with that, sir,  
but I do not want to argue with you.

Mr. McNamee: Will you say there was not?

Mr. McNamee: You say there was nothing written

Mr. McNamee: Writing of that matter.

Mr. McNamee: Not \$2,000,000?

Mr. Glasscock: No.

Mr. McNamee: I can show you the items.

Mr. Glasscock: I want it \$200,000.

Mr. McNamee: Well, we will come back to that.

However, it is sufficient that whether they were sold  
off afterwards or not the Dominion Textile Company  
issued certain securities and the securities purchased  
all the stock of these constituent companies. The  
members of this syndicate put up \$500,000 for common  
stock and got \$5,000,000 worth of common stock, and  
I am dealing with what they got. Now, all sorts  
of statements are made when you get two companies  
endeavoring to write into the agreements what has been  
more or less of a fanciful story in order that you

people that are in the amalgamation make a profit.  
Now, we are faced with this that these folks put up  
\$500,000, and that is all they did put up. You cannot  
make it any more, and that they did get \$5,000,000  
in stock.

THE COMMISSIONER: That is, they put up \$500,000  
for common stock.

MR. McRUER: Yes, \$500,000 for preferred, and  
they got dollar for dollar for everything they put  
up for the preferred stock and for the common stock -  
the Company undoubtedly - undoubtedly that was how  
it was regarded when the Company made the entry in its  
books, but afterwards they came along and said,  
"Now, this had better be fixed up; it does not look  
so good to start off with \$4,500,000 worth of goodwill,  
and we will re-write this." Then, they went back  
to see how the books stood in the other companies  
irrespective of the fact that they had bought their  
shares - the \$2,100,000 was substantially Dominion Cotton  
Company's, on the Dominion Cotton Company's books,  
a substantial amount of that - and they had bought  
these shares at 50 cents on the dollar, so to speak,  
That was what the shareholders got out of it, and,  
of course, there was all that long litigation,  
but I don't think the principles that were at stake  
in that litigation have anything to do with the  
quantum, the sufficiency or insufficiency of tariff



1861

people that are in the amalgamation make a profit.  
Now, we are faced with this that these folks and up  
\$200,000, and that is all they did put up. You remember  
more it any more, and that they did get \$1,000,000  
in stock.  
The Company's stock; that is, they put up \$200,000  
for common stock.  
MR. MERRILL: Yes, \$200,000 for preferred, and  
they got dollar for dollar for everything they put  
up for the preferred stock and for the common stock.  
The Company undoubtedly - undoubtedly that was how  
it was regarded when the Company made the entry in its  
books, but afterwards they came along and said,  
now, this had better be fixed up; it does not look  
so good to stand out with \$2,000,000 worth of preferred  
and we will re-write this. Then, they went back  
to see how the books stood in the other companies  
irrespective of the fact that they had bought their  
shares - the \$2,000,000 was substantially Dominion Co  
Company's, on the Dominion Cotton Company's books,  
a substantial amount of that - and they had bought  
these shares at 25 cents on the dollar, so to speak.  
That was what the shareholders got out of it, and  
of course, there was all that loss in the  
out I don't think the politicians that were at stake  
in 1861. I don't think they were any more to do with the  
policy, the policy, the policy, the policy, the policy.

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protection.

THE COMMISSIONER: Did they carry all these old shares in as being worth one hundred cents on the dollar.

5 MR. McRUER: No, they carried it into the capital of the Dominion Textile Company at the amount of the securities that were issued for them. For instance, the Dominion Cotton Company's shares, the securities that were issued amounted to \$1,500,000. They had  
10 a capitalization of about \$3,000,000. So it was carried into the capital of the Dominion Textile Company at the amount that the securities were issued on their original set-up.

15 Now, the Syndicate agreement provided that -

"The Royal Trust Company agreed to give an irrevocable power of attorney to such persons as may be named from time to time of the Board of Directors of Dominion Textile Company Limited  
20 to vote on all shares held by it at shareholders' meetings of the four cotton companies."

Of course, that was to put it through. These gentlemen had got themselves together in a Syndicate.

25 They arranged with the Royal Trust Company to send out these letters. They have the shares sent in to the Royal Trust Company and then the Royal Trust Company gives an irrevocable power of attorney to the nominees of the Syndicate to vote <sup>at the</sup> ~~after~~ meetings  
30 so as to bring about the amalgamation. That is the



securities that were issued for them.

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short and the long of it.

"In the event of a majority of the shares not being obtained in any company the Royal Trust Company agreed to hold such shares until the 15th March, 1905, unless directed to return them to the original owners by the majority in value of the contributors to the syndicate fund of one million dollars."

I think there must be an error in that line - "By the majority in value of the contributors to the Syndicate fund of One million dollars."

THE COMMISSIONER: They were to hold them ---

MR. McRUER: Yes, unless directed to return them,

THE COMMISSIONER: And the direction was to come from the majority in value of the syndicate.

MR. McRUER: Yes, my lord. Circular letters were sent out, and then the deal was put through. I have given the details of it there. They did not get 100 per cent. of the Dominion Cotton Company's stock or the Merchants Cotton Company's stock.

THE COMMISSIONER: What is that you say again?

MR. McRUER: They did not get one hundred per cent. of the stock in Dominion Cottons Company or Merchants Cotton Company so to get over the difficulty they had there the Dominion Textile Company agreed to rent the properties from each of these companies. Of course they got a majority, they got control of the Board on





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each of these companies. So they agreed to rent to the Dominion Textile Company all the assets of the Merchants Cotton Company and the Dominion Cotton Company at a rental sufficient to pay 4% on the capital of the company plus an amount sufficient to pay the interest on the outstanding bonds. So that the shareholders, although they were shareholders of these two cotton companies, all they could get was 4% on their stock as long as they liked to hold it.

THE COMMISSIONER: Is that mentioned here in this brief?

MR. McRUER: Yes, at page 143, my lord, second paragraph from the bottom. So that it was a rather clever arrangement, that if you do not want to come in we will rent the property which you are a shareholder of to ourselves, the Dominion Textile Company. We control your company. Now, we will rent the property to ourselves, and we will pay you 4% on your shares and you can hold your shares as long as you like.

THE COMMISSIONER: Of course, you have there what the majority shareholders in these companies were doing.

MR. McRUER: Yes, they got the majority control and I suppose had they wanted to be absolutely arbitrary in the matter they might have squeezed the other fellows out practically altogether. However, they had a lawsuit over that, and I am not going to retrace that.



14834

... of these companies. So they agreed to rent  
to the Dominion Textile Company all the assets of  
the Dominions Cotton Company and the Dominion Cotton  
Company at a rental sufficient to pay 4% on the capital  
of the company plus an amount sufficient to pay the  
interest on the outstanding bonds. So that the  
shareholders, although they were shareholders of these  
two cotton companies, all they could get was 4% on  
their stock as long as they liked to hold it.  
The Corporation: Is that mentioned here in this

Mr. Bryce: Yes, at page 148, my lord, second para-  
graph from the bottom. So that it was a matter  
of ever arranging it, that if you do not want to come  
in we will rent the property which you are a share-  
holder of to ourselves, the Dominion Textile Company.  
a control your company. Now, we will rent the  
property to ourselves, and we will pay you 4% on your  
shares and you can hold your shares as long as you  
like.

The Corporation: Of course, you have these and  
the majority shareholders in these companies were  
... and I suppose had they wanted to be absolutely certain  
the matter they might have suggested the other thing  
but practically altogether. However, they had a lower  
... that, and I am not going to retace that.

"The provisional directors of Dominion Textile Company were: Hon. L. J. Forget, David Williamson, George A. Grier, Charles B. Martin, J.P. Black and the Hon. Robert MacKay, all of whom were members of the syndicate."

Then we start into the Dominion Textile Company's growth and what it said about itself as it was getting along.

"The advantages of the amalgamation were pointed out to the shareholders, one of them being that the management was able to manufacture different lines of goods at the mill best adapted to produce the same, thereby getting longer runs of cloth and saving on the constant changing of looms."

MR. HEWARD: In the second paragraph you say that "all" the provisional directors named were members of the syndicate. Charles B. Martin does not appear to have been a member of the syndicate.

MR. MORUE: Yes, it should be "except Charles B. Martin." There is no doubt about that.

MR. HEWARD: These are simply the provisional directors who applied for letters patent.

MR. MORUE: There is just this point, as to what the company has said about itself, the effect of amalgamation and that one of the advantages is that you are able to manufacture different lines at different mills best adapted to produce the same, and can get longer runs of cloth and saving on the constant changing of looms: undoubtedly that would be an advantage to the company, and it might have been a proper





thing to have said that now that the industry has changed its entire complexion in Canada to one instead of twelve or thirteen companies competing, now it is all in the hands of one company, it might have been an occasion for a reduction of protective tariff. All the business of these twelve or fourteen companies has been gathered into the hands of one company, for this purpose, that they can run their business on the basis of getting longer runs of cloth, and there undoubtedly was an elimination of certain competitive features. The sales for the year amounted to \$8,000,000, an increase of \$1,475,000 on the sales of all four combined companies in the previous year. The hands employed were 6,000.

THE COMMISSIONER: How does the number of hands compare, do you know, with the total number employed by the amalgamated companies?

MR. McFURER: We have not got those figures for the constituent companies, but the average is up, it is \$291 per year. According to this --

"The Chairman stated that there had been a number of improvements in the mills and these had been taken off running expenses."

That is important. Your lordship will see that.

"\$200,000 had been spent for betterments and repairs",

And taken out of expenses. So that to the extent that that was betterments the profits really should be shown as increased by that amount.

MR. HEWARD: Oh no. You remember at this



thing to have said that now that the industry has  
its entire production in Canada to one interest of  
or thirteen companies competing, now it is all in the  
hands of one company, it might have been an occasion  
a reduction of protective tariff. All this business  
these twelve or thirteen companies has been put  
into the hands of one company, for this purpose, in  
they can run their business on the basis of getting  
larger runs of cloth, and there undoubtedly was an  
indication of certain competitive features. The sales  
the year amounted to \$5,000,000, an increase of

\$1,000,000 on sales of all four combined companies  
the previous year. The hands employed were 8,000.  
The Chairman: How does the number of  
employees, as far as that goes, with the other  
employed by the industry and competitors?

Mr. McMillan: We have not got those figures  
the consistent companies, but the average is up, it  
has been year. According to this --  
"The Chairman asked that the industry has been  
of improvements in the mills and there has been  
taken off running expenses."

Mr. McMillan: You have not got the figures  
\$500,000 has been spent for improvements and re-  
pairs.  
and taken out of expenses. As far as the extra  
that was between the profits really should be  
shown on the books of the industry.

Mr. McMillan: Oh no. You remember of the

14397

stage there were no regular write-offs for depreciation, that they wrote off betterments --

MR. McRUER: That is probably true. I beg your pardon.

MR. HOWARD: There were no write-offs at this stage for depreciation. That was their method of depreciation, to write certain betterments off profits.

MR. McRUER: Yes, that is quite right. We come to the meeting of May 30th, 1907. The Chairman stated to that meeting:

"I might say that in making up the statement for this year we have taken in the stocks of cotton, manufactured and unmanufactured goods, on a very conservative basis."

We might have that in mind when we are considering the profits that were made, and that the course that was followed of inventory valuation shown later on was one, as Mr. Gordon said -- and this is rather in Mr. Gordon's company's favour, then against them -- that it was something that their course of under-valuing inventory existed before there was a tax on profits.

MR. HOWARD: You call it under-valuation, Mr. McRuer. You say in your brief that you do not criticize the doing of it, later on. I think "a conservative" valuation probably is the proper expression, not an under-valuation.

MR. McRUER: "A conservative valuation", that is a good word. That word should not offend this company.



1907

tion, that they were off bottomments --

Mr. Brydie: That is probably true. I don't

your pardon.

Mr. Brydie: There were no witnesses at this stage for denunciation. That was their method of de-

preciation, to write certain bottomments off profits.

Mr. Brydie: Yes, that is quite right.

come to the meeting of May 30th, 1907. The chairman

stated to that meeting:

"I might say that in making up the statement for this year we have taken in the books of assets, manufactured and unmanufactured tools, on a very

conservative basis."

We might have that in mind when we're out stating facts that were made, and that the course that was followed of inventory valuation and later on was as Mr. Brydie said -- and this is rather in Mr. Brydie's

something that their course of under-valuing inventory existed before there was a tax on profits.

Mr. Brydie: You don't under-valuation, Mr.

Mr. Brydie: You say in your book that you do not

criticize the doing of it, later on. I think "a con-

servative valuation is the proper course

not an under-valuation.

Mr. Brydie: "A conservative valuation," that

is a good word. That word should not offend this

company.

THE COMMISSIONER: I suppose "conservative" means, tending to be under rather than over. That is right, Mr. Heward, is it not?

MR. HEWARD: It may be less than we will sell it for. We hope it is.

MR. McRUER: It may be stated in this way. Not the slightest criticism can be offered except this, that when we read the amount of profit --

THE COMMISSIONER: If you read the whole paragraph you will see the reason for arriving at this conservative basis is to meet the possibility of future slumps.

MR. McRUER: "We feel that while these have been very prosperous times for the cotton business, the mills have had to pass through other times, as you know, and these times will doubtless come again and perhaps before very long. And so I may state that things have been taken in that way --"

THE COMMISSIONER: That is, on a conservative basis?

MR. McRUER: Yes, my lord.

"....so that whenever the demand at home and other places to a certain extent slackens off, we will be prepared for it."

Now it means more, I think, than Mr. Heward says, that "we are just valuing our stock under rather than over", it means that "we have got a valuation on there that we are ready to meet all comers with, more or less, when things slacken off, because we have got a bit of a reserve stored away". I am not criticizing



...tending to be under rather than over. That is

right, Mr. ... is it not?

Mr. ...: It may be less than we all

it for. We have it as.

Mr. ...: It may be stated in this way.

Not the slightest criticism can be of any except

that than we need the amount of credit --

Mr. ...: If you read the whole

graph you will see the reason for writing at this

servative basis is to meet the possibility of future

slight

Mr. ...: I am sure that while these

from very practical times for the cotton business

the girls have had to pass through such times,

you know, on these times will be less than

and perhaps before very long. And so I may say

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the girls have had to pass through such times,

you know, on these times will be less than

and perhaps before very long. And so I may say

that things have been a bit in the way --

them for it. They say so, and they are frank about it, and that is the way they ought to do. But there is one thing that is important, and that is what they say about the condition in regard to the cotton industry at that time. We remember what they said about the competition, particularly British competition, just a year or so before, and that the tariff did not seem to be quite meeting their satisfaction, but they say:

"We feel that while these have been very prosperous times for the cotton business, the mills have had to pass through other times, as you know, and these times will doubtless come again and before very long."

And then the Chairman went on to state:

"We have a very low tariff in Canada, and compared with other countries, higher wages. (We have had to raise the wages once or twice, which we do not complain of.) Taking these things into consideration we have as I say, acted on a very conservative basis. I think we ought to be prepared for these times, as we must not expect that times like the present in the cotton business are going to continue forever."

Now I am not putting any language into anyone's mouth, I am not over-stating any case, I am letting them state their own case, of how they found things, but yet under a very low tariff. So we go on under that very low tariff and see what actually they did earn over the next period of years, and we are rather convinced that the bad times that they apprehended



They say so, and they are from about  
the way it is, and they are from about

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vative basis. I think we ought to be preparing  
for these times, as we must not expect that times  
like the present in the cotton business are going  
to continue forever."

Now I am not putting any language into anyone's mouth,  
I am not over-stating any case, I am letting them  
speak for themselves, as they are now doing.  
But under a very low tariff. So we are on under that  
very low tariff and we are generally not in a  
better position than we are, and we are rather

14400

might fall upon them did not come; that they were prepared to meet them but they did not come.

5 THE COMMISSIONER: Well, that is the value of preparedness.

MR. McRUER: Yes, my lord.

"The directors reported that \$850,472.78 had been spent during the past three years for repairs, improvements to plants, and new machinery."

10 THE COMMISSIONER: That is May, 1908.

MR. McRUER: Yes, that is right, -- we have gone on a year.

15 "All of this large amount had been charged to working expenses and no increase has been made to the fixed assets".

20 So there is the statement, and one thing that does impress one is that these plants did not need nearly as much money to keep them up before there was an income tax act as they have required since. The amount of depreciation they seem to have required grew heavier: they needed more for repairs and betterments notwithstanding the depreciation. I will deal with that more extensively later on. It is stated in the report:

25 "....owing to the business depression which set in last fall, and the very low tariff on cotton importations from Great Britain, which is only 15 per cent on greys and  $17\frac{1}{2}$  per cent on bleached goods, compared with duties ranging from 40 to 30 50 per cent in the United States, we are beginning



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to feel the effect of this competition, and it has necessitated our being compelled to operate the mills on short time and also to reduce wages.

That is 1908. I propose to show a bit later just what profits they made in the years 1909, 1910, along there, those times that they are complaining of. It will be noted that this company during the year wrote off \$205,825 for betterments out of operations. Also:

"They paid the interest on their bonds, preferred dividend and \$250,000 on the common shares for which \$500,000 had been paid in 1905, and had a surplus for the year of \$44,493.36".

That was the depression year that they complained about, and those who had invested in this common stock their \$500,000 now had half of it back in three years' time. They had received this dividend. And in addition to that there was transferred to surplus \$44,493 bringing the amount at the credit of the profit and loss account up to \$568,000. My friend Mr. Beauregard called my attention to something in connection with the wages.

MR. BEAUREGARD: That is at the end of page 145, where the report says the company is "compelled to operate the mills on short time and also to reduce wages."

MR. McRUER: Yes. They said they operated their mills on short time and they have reduced wages. There are the two pictures, what the original investor put in, the complaint that is made that the tariff





is too low, the treatment the workman gets -- and what the original investor got out of it. Those are facts. One can dress them in any way one wishes. There they are.

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"The Chairman in his report made reference to a strike that had occurred".

So the workman evidently had had reduced wages, and had protested. I rather think that this would be the strike that was the subject matter of a royal commission in that year.

10

MR. BEAUREGARD: 1908 -- yes.

MR. McRUER: They investigated the conditions there at that time.

15

THE COMMISSIONER: That would be the investigation carried on by the --

MR. McRUER: -- by the present Prime Minister when he was deputy minister of labour.

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"The Chairman in his report made reference to a strike that had occurred. The Chairman pointed out that while times were prosperous they had raised their wages, but now that times were not so prosperous the volume of business had been reduced and they were unable to continue to pay the same rate of wages. He had hoped that the men would be willing to take a slight reduction, and while some of the men were willing to do so, their leaders advised them not to do so, and they had not agreed to."

25

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Now there we are: that was the year of the first dividend on the \$5,000,000 of common stock, on



is too low, the treatment the workers have -- and what  
the original investor got out of it. There are facts  
one can draw from in any way one wishes. There is

"The Chairman in his report made reference to a

action that had occurred."

to the workers evidently had had reduced wages, and  
had protested. I rather think that this would be the

action that was the subject matter of a royal commission

in that year.

Q. A. 1898 -- yes.

A. Yes. The investigation was made

there at that time.

Q. Now, would you be the investi-

gation carried on by the --

A. Yes. The investigation was made

when he was Secretary Minister of Labour.

"The Chairman in his report in the report was to a

action that had occurred. The Chairman pointed

out that while times were prosperous that had

raised their wages, but now that times were not

prosperous the volume of business had been reduced

and they were unable to continue to pay the same

rate of wages. He had hoped that the men would

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of the men were willing to do so, their leaders

viewed them not so do, and they had not agreed to

Now there we are: that was the year of the

dividend on the £8,000,000 of common stock, on

which the investors drew out \$250,000.

(Recess fifteen minutes)

5 MR. McRUER: We were at the year 1909, page 146, my lord. The number of hands employed throughout these years is important in different aspects of the development of the industry in Canada and the mechanization of the industry. The average annual wages in 1909 were \$268. There is this to be said as to these figures of the numbers of hands employed; they are taken from 10 the minute book; and your lordship will notice that at times it says "about" and at times it says "over", so they are relative figures, and this can only be taken as a relative statement.

15 THE COMMISSIONER: But the amount of wages paid is almost --

MR. McRUER: It would be an accurate statement, yes, my lord.

20 THE COMMISSIONER: They are given in round figures, though.

25 MR. McRUER: They are given in round figures. Then we come to 1910. The number of hands employed has increased from 5600 to 6,000 and during the year the capacity of the Magog plant has been increased, centralizing all the print work there, and \$323,000 had been written off for repairs and betterments.

30 We find the number of hands now is 6500 -- it says, "over 6500" -- and the annual wages per employee are \$288. Of course that would be cut down by the amount that they were over 6500. Then in the year 1912 the





number of hands is 7500; they have jumped up by approximately 1,000. The average per employee is \$286, and it is stated here -- and this is important -- that the company had orders on hand sufficient to keep the mills operating at full capacity for some time. So that with this number of hands and with this amount of wages there would not likely be short time, as suggested, in that respect.

MR. HEWARD: That last statement applies only to the end of the year.

MR. McRUER: Where it is stated that the company had orders on hand sufficient to keep the mills operating at full capacity for some time.

MR. HEWARD: The figures apply to the whole of the previous year.

MR. McRUER: Well, they had 7500 hands the next year, and it is stated that they reported that a new mill had been erected at the Magog plant which contained 500 additional looms. Three hundred additional looms had been erected in the Mount Royal mill, and an extension to the Ste. Anne's mill in Montreal was under construction.

So we have in 1913 an expansion of business. I am just pointing this out because we recollect the apprehension that was expressed about difficult times in the future.

Then we come to 1914. The hands employed are stated to be 7,000; that is 500 less than the previous year. In 1915 it is 7,000 again. The profits for





14405

each of those years are dealt with at another time.

Then in the rreport for May 1916:

5 "It was reported that since the outbreak of the war the company had added a large number of lines not previously made in Canada to the already large lines of cloth".

10 So we find that the company's business was expanding during the war, although their statement was made up in the most conservative manner. One reason why the business was good was "on account of getting goods across from the other side", that is, that they had had an additional protection on account of the difficulty of shipping goods from the other side of the ocean.

15 That is important because we find this industry continually getting additional protection and additional advantages due to disturbed economic conditions.

20 But whenever economic conditions are disturbed abroad in such a way as brings competition, then there is a cry to exclude it. "Give us a profit that will be made by any adverse economic conditions abroad, but do not give the consumer the benefit of any lowering in prices or competition that might be brought by advantageous economic conditions abroad".

25 "The Chairman reported that the statement had been made up in the most conservative manner, and the one reason why business was good was on account of the difficulty in getting goods across from the other side. He stated 'I think we will from now on be in a better position to compete with the

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1920

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"It was reported that since the outbreak of the war  
the company had added a large number of lines not  
previously made in Canada to the already large list

of lines."

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of shipping goods from the other side of the ocean.

That is important because we find this industry con-  
tinually getting additional protection and additional  
advantages due to disturbed economic conditions.

But whenever economic conditions are disturbed abroad  
in such a way as brings competition, there is a  
way to get it. This is a point that will be

made by any adverse economic conditions abroad, but  
not give the company the benefit of any lowering in  
costs. It is a point that will be made by any

adverse economic conditions abroad."

"The Chairman reported that the statement had been  
made up in the most conservative manner, and the  
one reason why business was good was on account  
the difficulty in getting goods across from the

other side. He stated 'I think we will find that

in a future period it is possible that the

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14406

"English market than we were previous to the war."

5 And \$396,642 was written off for repairs. That is going up all the time. Of course they were expanding their mills and no doubt there would be more to repair. The amount paid out in wages was 21 per cent in excess of the previous year, and it is stated that in the inventory the stock had been reduced almost to a minimum, "and what is on hand is being taken in on a conservative basis." The dividends were increased from 6 per cent to 7 per cent on the \$5,000,000 of out-  
10 standing common stock. So that we have them now paying \$350,000 per year on this common stock that cost the original investors \$500,000. The total profits for the year amounted to \$1,582,705. There are the total profits of the company for the year on this original investment. Mr. Caverhill evidently appreciated the work of the directors in the management  
15 of the company that year. He said:

20 "While in years gone by we have had good things to say about the directors, this year it is more than ever deserving, and I hope all the directors will understand how we appreciate their services, be-  
25 cause those of us who are interested in the other companies know it has been a very hard and arduous year to pull through, not only with the market prices, but with the strikes and labour troubles, and you people handle them very well."

30 This was written into the minutes of the company and



1900

and \$300,000 was written off for repairs. That is going up all the time. Of course they were expending their moneys and no doubt there would be more to report. The amount paid out in wages was 21 per cent in excess of the previous year, and it is stated that in the inventory the stock had been reduced almost to a minimum, but that in the future there is no conservative basis. The dividends were increased from 6 per cent to 7 per cent on the \$5,000,000 of outstanding common stock. So that we have them now paying \$350,000 per year on this common stock that cost the original investors \$500,000. The total profit for the year amounted to \$1,302,705. There was the total profit of the company for the year on this basis. The directors in the next month of the company that year. He said:

"While in years gone by we have had some very dry about the directors, this year it is more than ever deserving, and I hope all the directors will understand how we appreciate their services, because those of us who are interested in the other companies know it has been a very hard and anxious year for all interests, and with the strikes and labour troubles, and the small bundle them very well."

This was written into the minutes of the company and

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14407

it is the official record of the company:

"I ask the prayers of my fellow shareholders that you may have as good a year next year and not run up against any harder things than you have had this year."

I think the prayers were answered.

MR. BEAUREGARD: That should be framed.

MR. McRUER: I could not resist putting in a quotation from "The Wandering Jew", --

THE COMMISSIONER: I sometimes wonder whether this Commission should not pray to have a good year next year.

MR. McRUER: Well, if my friend Mr. Geoffrion were here we might make it unanimous. At any rate war seemed to have its good points even back in the time of the crusades, when the old Jew was asked to loan some money for war purposes and said:

"In war time there is need of buying and selling in whatever cause it be waged and the profit is not less or more because that cause is sacred or profane".

So 1917 seemed to be a fairly satisfactory year all round. In 1918 things were better still: instead of \$1,500,000 the profits amounted to \$1,873,000. One would have thought that after these profitable war years and the circumstances under which they made the profit, these additional profits might have come out of war contracts that were not paid for by the Canadian consumer; we see that the directors say



1917

it is the official record of the company.

I ask the members of my fellow shareholders if you may have as good a year next year and not up against any harder things than you have had this year."

I think the prayers were answered.

MR. BRYDIE: That should be enough.

MR. BRYDIE: I could not resist putting it

protection from "The Wandering Jew", --

THE COMMISSIONER: I sometimes wonder what

this Commission should not pray to have a good year next year.

MR. BRYDIE: Well, if my friend Mr. Coffey

were here we might make it unanimous. At any rate we seemed to have the good fortune even back in the time of the crusades, when the old Jew was asked to loan some money for war purposes and said:

"If war time there is need of paying and repaying in whatever case it be waged and the profit is not less or more because in it some is needed."

So 1917 seemed to be a fairly satisfactory year of round. In 1918 things were better still: instead of the profit being less it was more.

One would have thought that after these profits of war years and the enormous losses which they brought, these additional profits might have

come out of war contracts that were not paid for the war years; we use it at the discretion of the

14408

themselves, that the conditions are largely due to their not being able to get supplies from the other side.

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MR. HEWARD: There is another statement too.

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MR. McRUER: However, I think they had some profitable contracts with the United States. It was reported in 1918 that considerable business was coming to Canada from the United States due to war orders. That was something on which the company made very exceptional profit, but they are not willing now that the consumer should get any return on a flow the other way.

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"At the meeting of shareholders of May 1929 it was reported that the supply of labour had improved, and that a pension fund system was to be inaugurated. The Chairman stated:

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'In connection with the report I would just like to say that there has been some talk about the large profits this company has made and comments have been made in the newspapers. It is true we have made pretty large profits during the last year, but I would like to explain these profits are very abnormal as it is what has happened in any industry doing any cotton business'".

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We cannot disregard the fact that these large profits were made in these years when they come back to the government and say "we must have no competition any other time". It was explained that they bought



1-403

themselves, that the conditions are largely due to their not being able to get supplies from the other side.

Mr. Boardman: There is another statement too. Mr. Boardman: However, I think they had some profitable contracts with the United States. It was reported in 1918 that considerable business was coming to Canada from the United States due to war orders. That was something on which the company made very exceptional profit, but they are not willing now that the consumer should get any return on a flow the

"at the meeting of shareholders of May 1919 it was reported that the supply of labour had improved, and that a general fund system was to be inaugurated. The chairman at that time said:

'In connection with the report I would just like to say that there has been some talk about the large profits this company has made and comments have been made in the newspapers. It is true we have made pretty large profits during the last year, but I am not sure as it is what has happened in any

We cannot disregard the fact that these large profits were made in these years when they came back to the government and say "we must have no competition any other time". It was explained that they bought

13,000,000 pounds of raw cotton at a low price and that they had large orders from the government of the United States, while they were having the benefit at that time of having bought low and being able to sell advantageously. There was an increase in the cost of equipping the mills. Then we go on to 1920 and -- over on page 152 -- the Chairman stated:

THE COMMISSIONER: "I notice they state there that wages have gone up 50 to 100 per cent advance over 1914."

MR. BENNETT: Oh yes, 50 to 100 per cent over 1914. Of course "50 to 100" per cent is quite a margin. They seem to stop putting in the minutes the amount paid in wages and the number of employees, so we have not been able to calculate them. In 1920 the Chairman stated:

"We have got a very good profit on our business and we are in a very sound financial position and although we have not shown quite as large a profit as last year, the affairs of this company and the reserve which has been set up in the various departments to take care of any depreciation which may come, are ample for all purposes."

I emphasize that when we come to discuss the question of whether or not there was profit tucked away in reserve for depreciation and in inventory reserve and these other places. Mr. Glasco and I differ a little bit on whether the company's statement about that should be taken, or his calculations, but this is one statement





14410

they made about it, at any rate:

"It was stated that the amount earned towards common stock and surplus was \$1,103,961. being less than five per cent on the turnover."

So when one sees what they can do on five per cent of sales in this company, again their turnover may have been repeated.

MR. GORDON: Cotton was very high that year.

MR. McRUER: Cotton was high, Mr. Gordon says. That is quite right. That is when cotton went up to as high as 40 cents per pound; so that that is illustrative of the statement that you cannot go too much on percentage of sales in determining what is fair. The annual general meeting --

THE COMMISSIONER: Before you go to that: back at the bottom of page 150, dealing with the meeting of May 1919, it said that a pension fund system was to be inaugurated. Are we to hear anything more about that? I do not remember what was said in the evidence about that.

MR. McRUER: Did you deal with that?

MR. BEAUREGARD: Not to a large extent.

MR. McRUER: I had rather leave these matters to my learned friend Mr. Beauregard.

MR. BEAUREGARD: I will deal with that.

MR. McRUER: They had created a fund for the purpose of pensioning old employees. They did not get it as or right, but --

THE COMMISSIONER: Pardon me a moment.



1891

they made about it, at any time;

"It was stated that the amount earned between

common stock and surplus was \$1,100,000, but a

less than five per cent on the turnover.

So when one sees what they can do on five per cent of

sales in this company, again itself turnover may have

been repeated.

Mr. Bryne: Cotton was very high this year.

Mr. Bryne: Cotton was high, Mr. Bryne.

says. That is quite right. That is when cotton was

up to as high as 40 cents per pound; so that that is

illustrative of the statement that you cannot do too

much on percentage of sales in determining that is

fair. The annual general meeting --

Mr. Bryne: Before you go to that:

back at the bottom of page 100, dealing with the

meeting of May 1910, it said that a resolution was

passed to be investigated. Now we go to page 101.

more about that? I do not remember what was said

the evidence about that.

Mr. Bryne: Did you deal with that?

Mr. Bryne: Not so a large extent.

Mr. Bryne: I had rather have those words

to my learned friend Mr. Beaumont.

Mr. Beaumont: I will deal with that.

Mr. Bryne: They had one of these things in

purpose of penalizing old employees. They did not

have any right to do that.

Mr. Bryne: I have no objection.

14411

Mr. Whiteley says it is dealt with in Mr. Howard's brief.

5 MR. HEWARD: My partner Mr. Ballantyne, who is still in bed, is very familiar with that part of it, but I believe it is in the brief.

THE COMMISSIONER: Then we need not deal with that.

10 MR. McRUER: Just roughly: the directors determine all payments out of that fund: they go to employees that they may select.

THE COMMISSIONER: No rights are constituted in it?

15 MR. McRUER: No rights are constituted in the fund at all. It is in no sense a trust fund or anything of that sort. The company could take it all and say "We are not going to give any more pensions" at any time they wish, as I understand it.

20 THE COMMISSIONER: It is on page 52 of Mr. Heward's brief.

25 MR. HEWARD: On page 155 of Mr. McRuer's brief it says that the pension fund reserve in the books had been transferred to a committee in trust pending the incorporation of a separate trust. And it is dealt with at page 52 of the Dominion Textile factum.

30 MR. McRUER: Yes. But you do not suggest that there are any rights, that any employee can sue for a pension?

MR. HEWARD: No; there are no contributions by



1881

and the same is to be left in the hands of

the same, and the same is to be left in the hands of

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the same, and the same is to be left in the hands of

the employees.

MR. McRUER: No, but it is not a fund set apart from the employees except as the company may designate from time to time.

MR. HEWARD: That is right.

THE COMMISSIONER: I notice that in this one year ended 31st March 1935 the statement is that \$71,154.75 was paid in pensions to retired employees "during the past year".

MR. HEWARD: That is right. I think that is in evidence.

THE COMMISSIONER: Well, we will hear more of it later.

MR. McRUER: At the annual meeting of May 30, 1921, it was stated:

" It may not be out of place at this annual meeting of the company to mention that the policy which was instituted at the very inception of the company, namely, that of concentrating our business at our largest plants, has been consistently carried out. The smaller plants have been closed up as the overhead expense connected with them was out of all proportion with the results."

That is in confirmation of what I said this morning, that these plants at Windsor, Montmorency, Saint John and so on had been closed. Business was concentrated now at six points, namely Montmorency, Magog, Hochelaga, Merchants, Mount Royal and Verdun. Of course it is fair to say this, that as these plants



1911

THE COMPANY

Mr. [Name] : No, but it is not a fund but a  
from the employees except as the company may decide  
from time to time.

Mr. [Name] : That is right.

THE COMPANY : I notice that in this one  
your order also March 1908 the statement is that  
\$71,144.75 was paid in pensions to retired employees  
during the past year.

Mr. [Name] : That is right. I think that is  
correct.

THE COMPANY : Well, we will have more of  
later.

Mr. [Name] : It is the same as the one of 1908,  
it was stated:

"It may not be out of place to mention that the policy which  
of the company to mention that the policy which  
was instituted at the very inception of the company  
namely, that of conducting our business at our  
largest plant, has been consistently carried out.  
The smaller plants have been closed up as the over-  
head expenses connected with them was out of all pro-  
portion with the results."

That is in confirmation of what I said this morning,  
that these plants at Winston, Montgomery, and  
that the same was done at  
activities and we have many  
and, [Name], [Name], [Name] and [Name].  
of course it is not a fund, but it is a

were increased more employees were employed, we will say, in the Hochelaga or the Merchants mill, although a plant was closed in Windsor or in Halifax or in Kingston, or as the case might be. As to whether the net result was more employment or not, I think that the records show that the number of employees diminished in total.

MR. HEWARD: You have left out Ste. Anne's in the list of the business concentrated at seven points: Montmorency, Magog, Hochelaga, Merchants, Mount Royal, Verdun and Ste. Anne's, it should be, at that time.

MR. McRUER: Has Ste. Anne's been since closed?

MR. GORDON: It is used as a storage warehouse, not for manufacturing.

MR. McRUER: A bonus of \$35,000 was paid to Sir Charles Gordon and \$7,000 to Sir Herbert Holt. That is just a small thing.

MR. HEWARD: That represented a bonus for several years, you know, and is so stated in the minutes.

MR. McRUER: Yes. It is the only bonus that appears.

MR. HEWARD: It is the only bonus that appears, and it is applied to several years, the war years.

MR. McRUER: It is stated that --

"...wages would no doubt give them some trouble.

Wages had been reduced in the United States of America and England and they were running on short time in England. It was stated that the company had



There have been more employees here employed, we will  
say, in the knowledge of the Government, although  
it was closed in Windsor or in Halifax or in  
Halifax, or as the case might be, as to whether  
there has been more employment or not, I think  
the records show that the number of employees during  
the year.

MR. HENRIE: You have left out Mr. Mac's  
list of the business concentrated on seven points  
Vancouver and Mrs. Mac's, it should be, at that time.

MR. HENRIE: Mac's, Mrs. Mac's been since closed  
MR. HENRIE: It is used as a storage warehouse  
for the goods.

MR. HENRIE: A bonus of \$25,000 was paid to  
Mr. Charles Gordon and \$7,000 to Mr. Horne & Sons.  
That is just a small thing.

MR. HENRIE: That represented a bonus for  
valued you as, you know, and is no listed in the  
minutes.

MR. HENRIE: Yes, it is the only bonus that

... it is the only bonus that ...

... it is the only bonus that ...

... it is the only bonus that ...

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"not materially reduced wages yet, 'although we are getting much better efficiency than we were getting, due to the fact that we have been able to eliminate unproductive labour'".

THE COMMISSIONER: What is meant by that?

MR. McRUER: At this time there was a re-vamping going on in the machinery right straight through. The machinery was being re-vamped in the different plants.

THE COMMISSIONER: Oh yes.

MR. McRUER: I assume that is what it means, that they had been able to eliminate unproductive labour and increase the efficiency of the machinery of the plants. Then on May 29, 1922, it was stated that prior to the rise of approximately 10 cents a pound in the price of raw cotton in September and October, the company had purchased several months' supply and that in a measure, accounted for the satisfactory results shown.

"The balance to the credit of profit and loss account amounted to \$5,007,700.57, and the amount which had been set aside for pension fund, bad debts and plant renewals amounted to \$2,694,254.70." Of course there was at this time some considerable reserve in addition to this.

"Referring to the changes in tariff which had just been brought down by the Finance Minister, it was stated that in 1914, under the British preferential tariff of 15 per cent on greys and 17½ per cent on



1919

14415

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"white cottons, they were unable to meet the competition from Great Britain, and there were imported into Canada 24,000,000 yards of grey cotton and 30,000,000 yards of white cotton."

THE COMMISSIONER: What is the meaning, then, of that expression "to meet/competition"? Does that mean, to exclude it entirely?

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MR. McRUER: I should think so.

THE COMMISSIONER: Because when you go back, according to these years, they were not doing too badly.

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MR. McRUER: Well, they increased the dividend on the common stock by paying about \$300,000 on the common stock.

20

THE COMMISSIONER: Take 1913 and 1914. I think some of these expressions used in these annual statements are rather loose, if one may say that, when they say they were "unable to meet the competition from Great Britain."

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MR. McRUER: Oh, they could not have meant that, because they were paying a dividend on this common stock at that time of \$300,000 a year. We have in the exhibits the actual profits that were made in those years.

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" It was further stated that under the present tariff of  $12\frac{1}{2}$  per cent on greys and  $17\frac{1}{2}$  per cent on white cottons, with exchange at \$4.49



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"While cottons, they were unable to meet the  
 position from Great Britain, and there were in  
 ported into China 21,000,000 yards of grey  
 cotton and 20,000,000 yards of white cotton."  
 the competition? But is the meaning, in  
 of that expression "to meet competition"? Does it  
 mean, to achieve it entirely?  
 Mr. Bryce: I should think so.  
 THE COMMISSIONER: Because when you go back  
 according to these years, they were not doing too  
 well.  
 Mr. Bryce: Well, they increased the dividend  
 on the common stock by paying about \$20,000 on the  
 common stock.  
 THE COMMISSIONER: The 1913 and 1914. I  
 some of these expressions used in these annual state-  
 ments are rather local, in one way say that, when in  
 say they were "unable to meet the competition from  
 Great Britain."  
 Mr. Bryce: Oh, they could not have meant  
 because they were paying a dividend on this common  
 stock at that time of \$20,000 a year. We have in  
 exhibits the annual reports that were made in those  
 years.  
 "It was further stated that under the act of  
 1913 of 124 per cent on income and 17 1/2 per cent  
 on profits cottons, with a dividend of 10 per cent

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"and taking into consideration the tax paid on raw cotton and supplies purchased, the margin is reduced to 2.82 per cent on grey cottons and 5.28 on white cottons, less whatever American exchange has to be paid."

Now that is a statement made officially by the company, that apparently at that time they were doing business on that margin of protection. We see how a bit later they get along. They were able in another year to split their shares three for one and then pay dividends on the split shares; and they can hardly have it both ways, -- one contending that "this is all the protection we have", and then saying "Well, that is all very well, it is true we are able to make these profits and pay these dividends, but we should have more protection still". If this is the protection they had, and they were able to get along as handsomely as they were, then it is pretty difficult to argue for a prohibitive tariff. At par of exchange protection on greys would amount to 11.85 per cent and on whites 14.45 per cent. At this time the Canadian dollar was at a discount, and he is giving the protection here that would have amounted to at par. The Chairman stated :

"I really cannot see myself why the Finance Minister ---"

THE COMMISSIONER: You say the Canadian dollar was at a discount?

MR. McRUER: Yes, my lord.



1928

and taking into consideration the tax paid on  
the cotton and sulphur purchased, the result is  
reduced to 11.68 per cent on grey cotton and 8.2  
on white cotton, and always the same result  
has to be paid."

Now there is a statement made officially by the company  
that approximately at that time they were doing business  
on that margin of protection. We see how a bit later  
they got along. They were able in another year to

split their shares three for one and then pay dividends  
on the split shares; and they can hardly have it both  
ways, -- one contending that "this is all the protec-  
tion we have", and then saying "Well, that is all

very well, it is true we are able to make these pro-  
fits and pay these dividends, but we should have more  
protection still". If this is the protection they  
had, and they were able to get along as handsomely

as they were, then it is pretty difficult to argue  
for a prohibitive tariff. At present exchange pro-  
tection on greys we are amount to 11.68 per cent  
and on whites 8.2 per cent. The same result can

be obtained by a tariff of 11.68 per cent, and by a giving  
the protection here that would have amounted to 8.2  
per cent. The Chairman stated:

"I really cannot see why the Minister  
Minister --"

THE CHAIRMAN: You say the Minister  
Minister --"

MR. BRAYNE: Yes, my lord.

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THE COMMISSIONER: No, exchange was at \$4.49.

MR. McRUER: That is in respect to Great Britain.

5 THE COMMISSIONER: Oh, discount in respect to the United States.

MR. McRUER: This must be in respect to the United States, otherwise it would be the reverse, that if at par or exchange, you would not be able to import.

10 THE COMMISSIONER: Oh yes, it says here, "less whatever American exchange has to be paid."

MR. McRUER: The Chairman stated:

15 "I really cannot see myself why the Finance Minister should bleed Canadian industries for the benefit of Great Britain or any other country."

Well, that is an official statement by the company at this time. What did the company want? Did they want more profits than they were getting at that time? Did they want more rights taken from the consumers, the few rights they had, to buy in Britain at these prices? The company was actually asking at this time that the Finance Minister ought not to give to the consumers the rights he had given, and they refer to it here as "bleeding Canadian industry". Well, we will see that the Canadian industry was so bulging with blood at that time that they split their shares in the very next year three for one in order to distribute it among the investors. That has a real relevance to the matters I mentioned early this morning as to what --

25 30 MR. HEWARD: It made no change to the investor.



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THE COMPANY: No, exchange was not made.  
Mr. Bryce: That is in respect to Great  
Britain.  
Mr. Bryce: Oh, discount in respect  
the United States.  
Mr. Bryce: This must be in respect to the  
United States, otherwise it would be the reverse,  
if it was of exchange, you would not be able to import  
THE COMPANY: Oh yes, it was here, in  
whatever American exchange has to be paid.  
I really cannot see myself why the Finance  
should be a Canadian industry for the benefit  
of Great Britain or any other country.  
Well, that is an official statement by the company and  
the company wants the money.  
Want more profits than they were getting at that time.  
The company wants more rights when the company is  
low rights they had, to buy in Britain at the same price.  
The company was actually making at this time that the  
Finance Minister ought not to give to the company  
rights he had given, and they refer to it as a  
"colossal" transaction. Well, we will see that  
the company was so dealing with itself at the  
time that they split their shares in the very early  
years for one in order to distribute it among the  
investors. That has a real relevance to the matter  
mentioned early this morning as a

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They paid the same dividend on the three split shares as they did on the one.

MR. McRUER: Later on they increased it.

MR. HEWARD: And then decreased it.

MR. McRUER: No, it was increased at any rate.

I have not got a record of the evidence here, and I will just see what they paid at this particular time.

In 1919-20 they paid \$400,000 on the common stock;

in 1921 it was \$500,000; in 1922 it was \$600,000.

This is the very year that they increased the dividend.

They carried it on in 1923 on this basis,

but this is the very year that the dividend on the

common stock was increased to \$600,000, and they were

complaining that the Finance Minister was bleeding

Canadian industry, when these very people that had

invested \$500,000, if they still held their common

stock, would draw out \$600,000 annually. It rather

indicates how much value one can seriously put on some

of the official statements that are made for public

consumption. During the same year a general meeting

of the shareholders was called on the 22nd December,

1922, to authorize an application for supplementary

letters patent extending the powers of the company,

and authorizing them to amalgamate with other com-

panies. There was an issue of 25,000 shares of

unissued common stock on the basis of one share of

new stock for two shares held, at \$100 a share.

MR. HEWARD: That explains the rise in the amount of dividends.



they will the same dividend on the three units  
appears as they did on the one.

Mr. McNamee: Later on they increased it.

Mr. H. H. H.: And then decreased it.

Mr. H. H. H.: No, it was increased at any time.

I have not a record of the evidence here, but

will have seen that they paid at this particular time

in 1911 it was \$500,000; in 1912 it was \$500,000.

This is the very year that they increased the divi-

gent. They carried it on to 1913 on this basis,

but this is the very year that the dividend on the

stock was increased to \$500,000, and they were

paying it out in 1914, 1915, and 1916.

Canadian industry, when there were people that had

increased \$500,000, if they still had their common

stock, would have got \$500,000 annually. It was not

indicated how much in London can be made out of some

of the official statements that a man for London

conservation. During the same year a general meeting

of the shareholders was called on the 2nd of January,

1916, to authorize an application for supplementary

capital to be raised in the amount of \$500,000.

and authorizing them to exercise the same.

There was an issue of \$5,000 shares of

stock on the basis of one share of

stock for two shares held, at \$250 a share.

Mr. H. H. H.: That explains the rise in the

price of dividends.

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MR. McHUR: At this time a new company was incorporated under the name of Dominion Textile Company Limited, to take over the whole undertaking of the old company, and the effect of the organization of the new company was to split the shares really three for one, that is, that the shareholders of the old company got three shares in the new company, that is common shares.

"At the meeting of the new company held on the 18th June 1924, it was stated that since the inception of Dominion Textile Company Limited, 19 years ago,  $2\frac{1}{2}$  per cent on sales had been distributed in dividends on common stock."

That is a pretty fine record, for an investment of \$500,000, that for over 19 years they had distributed  $2\frac{1}{2}$  per cent on common stock.

"It was stated that the strong financial position of the company was due largely to the great increase in value of the properties that had been acquired in 1905. These properties were in a demoralized state at that time, but had great potential value, which fact had been completely demonstrated, and had been gradually brought to a high state of efficiency".

Again, that is their own statement of how the increased value had been brought about, that is by taking over the demoralized properties that my friend suggests and argues now were worth much more than they were taken over at, but, it is said, "We took them over demoralized;



At this time a new company was  
incorporated under the name of Dominion Textile Co.  
limited, to take over the whole undertaking of the  
company, and the effect of the organization of the  
company was to split the shares roughly three for one  
that is, that the shareholders of the old company  
three shares in the new company, that is common  
shares.

"At the meeting of the new company held on the  
18th June 1924, it was stated that since the in-  
ception of Dominion Textile Company limited,  
15 years ago, 85 per cent on sales had been  
distributed in dividends on common stock."  
There is a pretty fine record, for an investment of  
£500,000, that for over 15 years they had distributed  
of that sum as follows:

"It was stated that the strong financial position  
of the company was due largely to the great  
increase in value of the properties that had been  
acquired in 1905. These properties were in a  
demolished state at that time, but had great  
potential value, which had been completely  
demonstrated, and had been gradually brought to  
a high state of efficiency."

Again, that in their own statement on how the increase  
in value had been brought about, that is a thing over  
the demolished properties that my friend suggests and  
argues now were worth much more than they were when  
over it, but, it is said, "we took them over demolished

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5 We have, out of the profits, we have earned, brought  
them up to a high state of efficiency, and here we  
are now." And that is the very time that they had  
this new appraisal made. When I come to deal with  
that appraisal I shall have to emphasize that they  
were either doing an honest thing or they were doing  
something that was not altogether honourable. If it  
was a profit that was really earned, they were in-  
10 creasing the capitalization on the strength of the  
profit that had been earned. If it was an increment  
in plant value on which they increased the capitali-  
zation it was not an honourable thing to do, so far  
as the shareholders were concerned, because those plant  
15 values had increased to the peak in the boom time just  
after the war by the rise in machinery values and would  
come down when they started to drop, and they did drop;  
so to recapitalize on the strength of that is not good  
financial practice. But I think their own state-  
20 ment is the correct one which was made at the time  
in their booklet, and that was that they had made  
profits which justified them in doing it. I deal  
with that separately.

25 "The 225,000 shares of common stock was carried  
in the balance sheet at \$15,000,000. There were  
sold for cash prior to the incorporation of the  
new company, 25,000 shares. Three shares for  
one were issued in the new company. The net  
30 result would be that for the \$5,000,000 in common  
stock allotted to the original incorporators for



we have, out of the profits, we have earned, brought  
them up to a high state of efficiency, and here we  
are now." And that is the very time that they had  
this new appraisal made. When I came to deal with  
that appraisal I shall have to emphasize that they  
were either doing an honest thing or they were doing  
something that was not altogether honest. It is  
was a profit that was really earned, they were in-  
creasing the capitalization on the strength of the  
profit that had been earned. If it was an increase  
in plant value on which they increased the capital-  
ization it was not an honest thing to do, so far  
as the shareholders were concerned, because those of  
value had increased to the peak in the boom time, and  
after the war by the rise in machinery values and so  
come down when they started to drop, and they did not  
so to recapitalize on the strength of the boom, or  
financial practice. But I think their own state-  
ment is the correct one which was made at the time  
in their booklet, and that was that they had made  
profits which justified them in doing it. I deal  
with that separately.

"The 225,000 shares of common stock was a value  
in the balance sheet at \$15,000,000.  
paid for each prior to the incorporation of the  
and interest, at the same time, the shares  
and were issued in the new company. The net  
stock allotted to the original incorporators for

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"\$500,000 there was now outstanding 150,000 shares of common stock which were carried in the balance sheet at \$10,000,000."

5 So that is how they got along actually on their books when they were complaining about the Minister of Finance "bleeding" them. It was stated, however, to the shareholders:

10 "....the duty, as you know, has been cut down in the last few years, and that is another factor which makes it difficult for us to make a very great profit."

15 Well, we have got to regard the capacity with which this concern sought to make profit. Its capacity for asking, anyway, has got to be regarded when we consider really what it ought to get.

20 "It was stated that during the year a pension fund was established, that for the past seven years \$7,000 per annum was required, and it was suggested that \$10,000 be set aside during the current year."

25 At the annual meeting held in May 1925, the Chairman stated that of 97 Lancashire cotton spinning companies having a total paid up capital of £13,000,000, 57 paid dividends which amounted to only  $1\frac{1}{2}$  per cent of the amount of paid-up capital. The other 40 of the 95 companies were unable to make any payment; that in the United States of America things 30 were not very good at all, especially in



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"the north, and --

'I think we may congratulate the shareholders on the showing we have made'".

5 I think they could, very sincerely. I think the shareholders could congratulate the consumers in what they had done in their turn. I draw a picture later on of what the industry abroad, both in the United States and Great Britain, was able to do at the same time as the Canadian industry, and it gives a picture of how the consumers have served the Canadian industry compared with what service the industries abroad have had.

15 "It was stated that \$100,000 standing at the credit of pension fund reserve in the books had been transferred to a committee in trust pending incorporation of a separate trust and the appointment of a separate committee to administer all pensions.

20 It was stated the company had no export trade whatever, and no probability of having any.

25 It was stated to the meeting that 50 per cent of the imports could be eliminated if the company had the opportunity of working under an equitable tariff."

THE COMMISSIONER: Now we are getting down to what is meant by an "equitable tariff".

MR. McRUER: Yes, my lord.

30 THE COMMISSIONER: We will have to see what the imports were.



I think we may congratulate the shareholders on the showing we have made. I think they could, very sincerely. I think the shareholders could congratulate the company in what they had done in their turn. I drew a picture later on of what the industry abroad, both in the United States and Great Britain, was able to do at the same time as the Canadian industry, and it gives a picture of how the consumers have served the Canadian industry compared with what service the industries

"It was stated that \$100,000 standing at the credit of pension fund reserve in the books had been transferred to a committee in trust regarding incorporation of a separate trust and the appointment of a separate committee to administer

It was stated the company had no current trade whatever, and no probability of doing any. It was stated to the meeting that 10 per cent of the imports could be eliminated if the company had the opportunity of working under an equitable tariff.

The company will have no business in the future.

Mr. McRUER: You might make a note, Mr. Walton, just to see what the imports were of cotton goods in 1925.

5        "At the meeting held on the 11th May, 1927, " ---  
That would be 1926, surely.

THE COMMISSIONER: You have been referring to May, 1925.

10        MR. McRUER: Just let me see if we have missed putting in a date here. It may be that in my dictation I have missed it.

THE COMMISSIONER: The first meeting of the new company that you refer to was on the 18th June, 1924.

15        MR. McRUER: Yes, my lord. I skipped to May, 1927.

20        THE COMMISSIONER: Then you have the annual meeting of May 1925, where this reference is made about eliminating 50 per cent of the imports. Then you have gone on to May 1927, and after that you go on to May, 1928. You have passed May 1926.

25        MR. McRUER: I just want to see what the right date is for that, my lord. We got into a little confusion in the evidence over the dates I see here, too. Evidently in reading the minutes into the record we stumbled over a date in Mr. Kallock's brief, a statement following page 11, section (c), the imports of cotton piece goods for the calendar year 1926. However, I will give the figures: 95,153,000 square  
30        yards: that would be 45,715,000 from the United Kingdom,







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46,566,000 from the United States, and 2,871,000 from other countries. It follows page 11 of section (e). It is not paged.

5 THE COMMISSIONER: Does it not look as though you had skipped the year 1926?

MR. McRUER: We did. We got into confusion in the evidence about years. Then we come to the profit and loss account, March 31, 1926, as shown here.

10 "Mr. McRuer: Did you read 1925?" "Mr. Ballantyne: I did not hear you read the minutes of the 1926 meeting. I am afraid we missed 1925. I do not think we read the profit and loss account for 1925....yes, you did for 1926....yes....then you had better put it in now".

15 THE COMMISSIONER: Well, perhaps we could have it cleared up by to-morrow morning.

MR. McRUER: Well, my lord, I want to go on and get it accurate.

20 -----  
The Commission adjourned at 4.55 p.m.,  
to resume at 10.30 a.m., Tuesday,  
February 9, 1937.

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46,586,000 from the United States, and 2,871,000 from  
other countries. It follows page 11 of section (c).  
It is not paged.

THE COMMISSIONER: Does it not look as though  
you had skipped the year 1928?

MR. McHUR: We did. We got into confusion in  
the evidence about years. Then we come to the profits  
and loss account, March 31, 1928, as shown here.

"Mr. McHUR: Did you read 1928?" "Mr. Ballantyne:  
I did not hear you read the minutes of the 1928 meet-  
ing. I am afraid we missed 1928. I do not think we  
read the profit and loss account for 1928....yes,  
you did for 1928....yes....then you had better put  
it in now."

THE COMMISSIONER: Well, perhaps we could have  
it cleared up by to-morrow morning.  
MR. McHUR: Well, my lord, I want to go on  
and get it accurate.

The Commission adjourned at 4.35 p.m.,  
to resume at 10.30 a.m., Tuesday,  
February 9, 1927.

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